STATE OF HAWAI`I
APPLICATION FOR RENEWAL
OF CABLE TELEVISION FRANCHISE

I. Introduction

In accordance with the State of Hawai`i's Hawai`i Administrative Rules ("HAR") (esp. § 16-133-9 and §16-133-28 and 29), an applicant for a renewed cable television franchise is required to submit an application, in a form designated by the Director of the Department of Commerce and Consumer Affairs ("DCCA"). This Application represents that form, with respect to the April 24, 2014 notice of intent for franchise renewal by Oceanic Time Warner Cable LLC ("Oceanic") for the Kauai County franchise. Submission of the completed Application, and its acceptance by DCCA, are necessary State conditions for the requested renewal. However, the application process outlined in HAR does not relieve Oceanic of its obligations, or prejudice any of Oceanic's rights, under the renewal provisions of §626 of the federal Cable Communications Policy Act of 1984 as revised, nor other applicable law and regulation. In particular, the completed Application does not constitute a "renewal proposal" for the purposes of the formal renewal procedures described in the Cable Act. Acceptance of the Application by DCCA does not confer any franchise right, nor constitute agreement in whole or in part regarding any franchise provision. DCCA's acceptance is intended only as an acknowledgement of the substantial completeness of the Application and the information it contains, along with acknowledgement that Oceanic has fulfilled a necessary State condition for obtaining a renewal franchise as requested. Upon acceptance of the Application, it is DCCA's intention to draft a proposed franchise, incorporating provisions reflecting community needs and interests, and comments from the public hearing on the renewal application, to serve as the basis of negotiations aimed at establishing a mutually agreeable franchise document.

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II. General Information

A. *Provide a summary of the application for renewal.*

Response: For nearly fifteen years, Oceanic has provided high-quality and innovative cable television and other services[1] to the residents of Kauai while making significant investments in its Kauai system.

On December 17, 2015, DCCA approved Charter Communications, Inc.'s ("Charter") and Oceanic's former corporate parent, Time Warner Cable Inc.'s ("TWC"), joint application for the transfer of control of all of Oceanic's franchises in the State of Hawai`i, including the Kauai franchise. See Decision and Order No. 366, issued on December 17, 2015 ("D&O 366"). Today, as a wholly-owned, indirect subsidiary of Charter, Oceanic offers over 500 analog and digital video and music channels, and continues to provide local residents with innovative cable television, video, data, voice and other services through one of the most technologically-advanced systems in the industry. From delivering reliable and innovative services, to employing the latest in high definition ("HD") technology to bring local sports and other locally-produced programs directly to subscribers' homes, Oceanic - through its over 1,300 employees statewide - has developed a solid record of stability, performance and commitment to the residents of Kauai and the entire state.

Oceanic, by leveraging the synergies of the Charter merger with TWC and Bright House Networks ("BHN"), looks forward to continuing and building upon its tradition of providing dependable, high-quality and innovative cable television services to the residents of Kauai though a franchise that balances the interests of stakeholders with the flexibility to deploy and manage technology and resources in the best, long-term interest of all subscribers on Kauai. Among other features, Oceanic's application proposes to provide public, educational and governmental ("PEG") access

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[1] Certain of the subjects and benefits discussed in this Application pertain to non-jurisdictional products and services. While Oceanic lawfully provides services other than cable over its system, DCCA does not regulate the various other services offered by Oceanic and referenced in this Application, such as Oceanic's high speed data, phone, and Wi-Fi services. Oceanic discusses them in this Application as examples of the types of innovative services that Oceanic has and will continue to provide to the residents of Kauai. Oceanic respectfully reserves all rights relating to the inclusion of or reference to such information, including without limitation Oceanic's legal and equitable rights relating to jurisdiction, filing, disclosure, relevancy, due process, review, and appeal. The inclusion of or reference to non-jurisdictional information may not be construed as a waiver of any rights or objections otherwise available to Oceanic in this or any other proceeding, and may not be deemed an admission of relevancy, materiality, or admissibility generally or with specific regard to the DCCA's actual public interest standard under applicable law.

channel capacity, contribute to Kauai's PEG capital expenditures in an amount that accounts for the dramatic changes in the way individuals create and distribute their own video programming, and discuss with DCCA commercially reasonable terms regarding the continued maintenance of, use of, and signal transport on, Oceanic's institutional network ("I-Net").

B. Authorization

State the names, addresses, and occupations of all persons who are authorized to represent or act on behalf of Applicant in those matters pertaining to the Application. For each person so authorized, Applicant shall state the limits, if any, of the Authority of the individual to make representatives or act on behalf of Applicant with respect to matters pertaining to the application. The requirement to make such disclosure shall continue until the State shall have accepted or rejected Applicant's application or until Applicant withdraws its application.

Response: Oceanic has authorized legal counsel and the following employees to represent or act on its behalf in those matters pertaining to this Application:

Yamamoto Caliboso LLLC 1099 Alakea Street, Suite 2100
Honolulu, HI 96813

The following Oceanic officer is fully authorized to act on behalf of Oceanic:

Gregg Fujimoto — Regional Vice President
200 Akamainui Street
Mililani, HI 96789

C. History and experience

Provide a narrative account of Applicant's history and experience in the operation of the Kauai County Franchises.

Response: Oceanic's roots in Hawai`i can be traced back to the development of housing in central Oahu in the late 1960s. Castle & Cooke's Oceanic Properties constructed a 12-channel cable system for residents of Mililani. This cable system, Oceanic Cablevision, eventually became a separate business entity operating the Mililani cable system and the Rainbow TV cable system, which served portions of Manoa and

Nuuanu on a lease-back arrangement with Hawaiian Telephone Company.

In light of the FCC requirement that telephone companies divest their interests from the cable business, the State of Hawai`i enacted a law enabling cable operators to use public-rights-of-ways to install their cable plants. The State Department of Regulatory Affairs (now known as the Department of Commerce and Consumer Affairs) then divided the islands of Hawai`i into franchise areas. These areas were awarded to individual cable operators based on the merits of the services they proposed to offer in the areas their respective cable systems would ultimately serve.

Oceanic Cablevision was awarded a franchise granting it authority to provide cable service throughout most of metropolitan Honolulu, the entire Central Oahu area, and the North Shore between Kaena Point and Kahuku.

Oceanic Cablevision was one of the nation's first "urban build" systems to provide cable-exclusive programming in addition to broadcast stations in order to produce a marketable product. Even though customers in areas such as the North Shore and the deeper reaches of Manoa and Nuuanu valleys on Oahu would often subscribe to cable television for improved reception, most residents in the populated areas of Oceanic Cablevision's service area were looking for more than just better broadcast reception and welcomed Oceanic Cablevision's expanded services.

Oceanic Cablevision's planning, innovation and engineering during the 1970s established the vision and foundation for Oceanic's system that exists today. Currently, Oceanic serves not only the original franchise area awarded to Oceanic Cablevision in the late 1960s, but has grown to include the entire state of Hawai`i.

Oceanic's presence on Kauai dates back to 2002, when the DCCA approved Oceanic's predecessor-in-interest, Time Warner Entertainment Company, L.P.'s ("TWE") application for the transfer and amendment of the cable franchises held by G Force.[2] G Force provided cable television service to the residents of Kauai through Garden Isle Cablevision and Kauai Cablevision, which were two separate cable systems with separate headends. The G Force systems provided approximately 65 analog channels to Kauai residents.

[2] Decision and Order No. 291 (July 12, 2002).

Following the transfer of the franchises, Oceanic embarked on a comprehensive program to consolidate, expand and upgrade the former G Force systems, including consolidating the two systems and installing one principal headend, upgrading the system to a minimum bandwidth of 750 MHz (without passing on those costs to subscribers), and providing extensive and quality programming to residents, including digital programming. On April 20, 2005, DCCA acknowledged that Oceanic completed the 750 MHz upgrade for its Kauai system, enabling access to digital and other services.[3] Since then, Oceanic has continually upgraded its Kauai system such that residents on Kauai now enjoy a system that provides a wide array of modern services available to other subscribers statewide.

Today, the current activated capacity of the Kauai system is 870 MHz, with much of the system upgraded to support 1 GHz, and Oceanic provides over 500 digital and analog channels of programming from a variety of sources (local broadcast stations, studio origination, satellite and other video sources). Oceanic's system includes a network of coaxial hard lines and optical fiber. Oceanic has also provided digital programming services to Kauai residents since 2002. Oceanic currently passes over 38,000 homes on Kauai.

Through these investments and upgrades, Oceanic's subscribers currently have access to an expansive array of cable services and other advanced services that were not previously available to Kauai residents, including digital phone service. By standardizing system capacity throughout its franchise areas in Hawai`i, including on Kauai, Oceanic has strived to bring service parity to all of its subscribers in the state.

Oceanic has also taken its obligation to be a good corporate citizen very seriously. Over the course of its history in Hawai`i, Oceanic has supported many non-profit entities in the state with substantial donations and has participated in numerous community and charitable events. Oceanic is an integral part of the Kauai community and the larger statewide community.

Oceanic's history of both service and commitment to the residents of Kauai amply demonstrates that Oceanic has not only been a good corporate citizen, but has also been an industry-leading, innovative provider of cable communications services to its subscribers on Kauai and throughout the state.

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[3] *See* Decision and Order No. 319, at 3 (April 20, 2005).

D. *Describe the present Kauai County cable systems.*

Response: Oceanic's current cable system employs a hybrid fiber coaxial ("HFC") network. Oceanic transmits signals on the system via laser-fed fiber optic cable from origination points known as "headends" and "hubs" to a group of distribution "nodes," and uses coaxial cable to deliver these signals from the individual nodes to the homes they serve. The primary headend for Kauai is in Kalaheo, with hubs located in Kukuiula and Kapaa.

Oceanic's former corporate parent, TWC, pioneered this architecture and received an Emmy Award in 1994 for its HFC development efforts. HFC architecture allows the delivery of two-way video, which is essential to providing advanced video services like video on demand ("VOD"). All of the homes passed by Oceanic's cable system are served by plant that has been upgraded to provide at least 870 MHz of capacity, with newer portions of the system upgraded to 1 GHz of capacity.

E. Technology Change and Kauai County Cable System Infrastructure

Describe with particularity how: (1) the technical provision of cable service is likely to change over the period of the franchise; (2) the demand for services in the franchise area is likely to change over that same, period (for example, the capability of accommodating High Definition Television, two-way services to the home, high speed broadband, Internet service, data transmission, etc.); and (3) it can assist in affirmative development of the cable system infrastructure in Kauai County during the remaining term of the franchise.

Response: The history of cable technology is one of rapid change and Oceanic expects that the future will likely see a similar progression of new developments, services and associated technology. Oceanic, with the experience and expertise of Charter, is prepared to meet the cable-related needs of Kauai residents in the next franchise period, in a manner that gives Oceanic flexibility to manage its technology and resources, compete for new video customers, and offer affordable services to price-sensitive customers. In the near term, Oceanic's cable customers will continue to receive the same, similar, or higher quality products and services that they currently enjoy. Moving forward, Charter is committed to making the investments necessary to ensure that its network is not only robust for today's cable-related needs, but capable of evolving to meet tomorrow's cable-related consumer and business demands, to the extent financially and technically reasonable.

Charter, for example, anticipates deploying innovative equipment and

services, such as a set-top box that will use a downloadable security solution and a cloud-based user interface that will enhance the consumer video service and can be accessed through both new and legacy two-way set-top boxes.

F. Franchise Compliance Review

DCCA through its consultant conducted franchise compliance reviews regarding the Applicant which reflect that the Applicant has complied with the terms of the existing franchise orders. (Please see "Compliance Review" in the consultant's report *Community Ascertainment and Related Activities* dated April 5, 2016 (the "Ascertainment Report"), pp. 8-15.)

Provide any comment or proposals regarding this section of the report.

Response: The principal finding of the Compliance Review was that Oceanic is in full or substantial compliance with its material franchise obligations. As it has during the current franchise period, Oceanic intends to continue to diligently comply with its franchise requirements.

The Compliance Review noted a few nonmaterial issues that either are not compliance issues, or have been addressed or are in the process of being addressed. For example, the review stated that some required reports were submitted past the scheduled due date. Oceanic's parent, Charter, is committed to prompt and accurate reporting. With Charter's oversight, Oceanic will strive to submit reports on a timely basis.

The Compliance Review also reported that Oceanic currently does not provide discounts for bulk MDUs serving senior citizens. Oceanic, however, does provide bulk service at significant discounts from the standard subscriber rate to all bulk MDU customers, including those serving senior citizens, when bulk agreements are negotiated. Oceanic believes that these discounts are reasonable and comply with Decision and Order No. 291.[4] Additionally, the customers noted in the Compliance Review that are receiving grandfathered discounts are not bulk customers, as contemplated by Decision and Order No. 291, but rather individual subscribers.

With respect to technical issues, the Compliance Review gave Oceanic's system high marks on all performance measures. As the Technical Review concluded:

[4] *See* Decision and Order No. 291, at 17 (July 12, 2002) ("TWE has agreed to implement reasonable discounts for bulk customers serving senior citizens, such as retirement communities and long term care facilities located on Kauai.").

> The Oceanic Kauai system has been found to be generally sound. Operations, maintenance, and repair activities are well managed and performed with attention to detail, with an eye toward long-term reliability and quality of service. As with other Oceanic-owned systems throughout the State, pride in ownership is shown by the dedication and work ethic demonstrated by local Oceanic staff. As a whole, the public on Kauai stands to benefit from continuing to receive service from Oceanic. (Ascertainment Report, p. 29.)

The Compliance Review reported that FCC proof of performance tests indicated analog signal distortions at five of the test points. But, the evidence indicated that these distortions were due to testing issues rather than systemic problems with the network. In any event, Oceanic, with the support of Charter, intends to monitor, and if necessary, correct any FCC proof of performance issues that may arise.

Additionally, the Compliance Review stated that the "part of Oceanic's cable system served by the Kilauea Optical Transport Network (OTN) needs to be reconfigured to address reliability issues caused by the current OTN platform." Oceanic is in the process of reconfiguring its fiber distribution to serve the north Kauai area directly from the existing Kapaa hub without a powered OTN. Additional equipment and fiber has been installed but splicing still needs to be completed. This is currently planned for the first quarter of 2017. Once completed, this work should address any reliability issues caused by the current Kilauea OTN.

Through its planning, innovation and development of its system on the island of Kauai, and throughout the state, Oceanic has demonstrated that it is committed to investing in Hawai`i over the long term. With Charter's support and resources, Oceanic intends to continue to provide reliable and innovative services to its subscribers and relevant stakeholders through its ongoing operations, maintenance and repair programs, which will be enhanced by Charter's customer-focused business model.

G. Innovations

Please describe any cable-related innovations during the last ten years which Applicant has undertaken. These innovations may include technological or consumer service upgrades.

Response: Over the past ten years, Oceanic has continued its tradition of providing innovative and high-quality products and services to its subscribers. Cable-related innovations currently offered by Oceanic include:

- HD Television. Oceanic currently offers over 100 channels of HD television, or HDTV, and expects to continue to add additional HD programming in the future. HD simulcasts (i.e., HD channels that are the same as their standard-definition counterparts but for picture quality) are currently provided at no additional charge, and additional charges apply only for HD channels that do not have standard definition counterparts. In addition to its linear HD channels, Oceanic also offers VOD programming in HD and, on select channels, HD programming may soon be viewed using Start Over in HD, which allows viewers to restart certain shows already in progress.

- VOD Services. Oceanic currently offers VOD services to digital video subscribers using an Oceanic-provided set-top box. Available VOD services include a wide selection of featured movies and special events, for which separate per use fees are generally charged, and free access to selected movies, programs and program excerpts from broadcast and cable networks, music videos, local programming and other content. In addition, subscribers to VOD-capable premium services (e.g., SHOWTIME®, STARZ®) generally have access to the premium service's On-Demand content without additional fees.

- Enhanced DVR and Whole House DVR. Oceanic currently offers set-top boxes equipped with digital video recorders ("DVRs") that enable customers, among other things, to pause and/or rewind "live" television programs and record programs on the hard drive built into the set-top box. Oceanic also offers HD DVRs, which enable customers to record HD programming. Oceanic's Enhanced DVR allows customers to watch and record up to six shows at once. With Whole House DVR, customers can watch recorded shows from any room in the house with a digital set-top box.

Charter, Oceanic's new corporate parent, has focused on serving and maintaining its customers through best-in-class practices, and is looking forward to deploying its customer-friendly approach and other innovative practices to the residents of Kauai through Oceanic.

H. System Upgrade

Please describe future changes in the system or its operation which are currently budgeted, and any others which are planned or proposed by Applicant in the near and long term.

Response: In addition to the changes contemplated by D&O 366, and subject to market, financial, technical, and other considerations, Oceanic anticipates that Kauai subscribers will benefit from the following potential changes in the near or long term:

- Additional HD video, VOD, and other innovative cable offerings as analog channels are reclaimed.
- Increased programming choices and viewing options potentially available from the combined Charter and Oceanic platforms.

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III. Affidavit

STATE OF HAWAI`I)
) ss.
CITY AND COUNTY OF HONOLULU)

This application is submitted by the undersigned who has been duly authorized to make the representations herein on behalf of the Applicant.

Applicant understands that representations in this application may be made part of or be relied upon in developing the Franchise Documents, and are enforceable against Applicant, in the event a franchise is renewed as a consequence of this application.

Applicant recognizes that all representations made in this application are binding upon it and that inaccuracy of or failure to adhere to any such representations may result in revocation of any franchise that may be granted as a consequence of this application.

Consent is hereby given to the State to make inquiry into the legal, character, technical, financial and other qualifications of Applicant and any controlling entities by contacting any persons or organizations named herein as references, or by any other appropriate means.

The Applicant certifies and guarantees that the responses are within the financial capability of the proposed system, and to deliver a cable communications system which is consistent with the responses contained within this application.

The signatory hereto declares that the entire contents of this application are true and correct to the best of his knowledge, information and belief.

Oceanic Time Warner Cable LLC

Affiant's Signature [signature]
Affiant's Name Steve Hattrup
Official Position Vice President, Finance

MA N.P

Doc. Date: Dec. 16, 2016 # Pages: ~~1~~ 41
Notary Name: Melissa Ambriz First Circuit
Doc. Description: Application for Renewal of Cable Franchise

MA N.P.

[signature] 12/16/16
Notary Signature Date

(Stamp or Seal)

MELISSA AMBRIZ NOTARY 15-38 PUBLIC MA STATE OF HAWAII

IV. Qualifications

As part of the franchise renewal process, DCCA wishes to obtain information regarding the financial, legal, technical and character qualifications of the Applicant.

A. Legal and Ownership Qualifications

1. Ownership and Control Information

Provide the following information for all principals, officers, directors of Applicant, and for beneficial owners of one percent or more of the outstanding stock or other ownership interest in Applicant. Beneficial owners include, but are not limited to individuals, corporations, partnerships, joint ventures and unincorporated associations. Beneficial owners also include all prospective owners, including those to whom offers to become owners have been made and the offer has not been rejected. To the extent that the information below is fully contained in SEC Form 10K filings, those filings may be submitted in lieu of the information below.*

Name (if individual) ____________________________

(if organization) ____________________________

Complete Mailing Address ____________________________

Nature of Interest: Partner **[ ]** Officer **[ ]** Stockholder/Owner **[ ]**

Director **[ ]**

Profession or occupation ____________________________

Name of employer ____________________________

Address of employer ____________________________

Number of shares of each class of stock or ownership interest in Applicant (including stock options, stock subscriptions, and partnership options):

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* If applicant is a subsidiary of another controlling entity, provide the requested information for all controlling entities.

Method of payment for interest (cash, notes, services, etc.):**

If shares are used for security to obtain funds to pay for them, disclose full details of the transaction:

Percentage of ownership of partnership, voting stock or equity interest:

Response: Oceanic is a Delaware limited liability company that is authorized to do business in the State of Hawai`i. The ownership of Oceanic Time Warner Cable, LLC is as follows:

- Time Warner Cable Enterprises, LLC owns 100% of Oceanic Time Warner Cable LLC.
- Time Warner Cable, LLC owns 100% of Time Warner Cable Enterprises, LLC.
- Charter Communications Operating, LLC owns 100% of Time Warner Cable, LLC.
- CCO Holdings, LLC owns 100% of Charter Communications Operating, LLC.
- Spectrum Management Holding Company, LLC owns 100% of CCO Holdings, LLC, indirectly through holding companies.
- Charter Communications Holdings, LLC owns 100% of Spectrum Management Holding Company, LLC.
- Advance/Newhouse Partnership ("A/N") is a privately held investor that is unaffiliated with Charter and owns approximately 13% of Charter Communications Holdings, LLC in the form of 30,995,834 Class B Common Units and 25,000,000 Convertible Preferred Units.
- Charter Communications, Inc., a publicly traded company and the ultimate parent of Oceanic Time Warner Cable, owns approximately 87% of Charter Communications Holdings, LLC, indirectly through holding companies.

** If no, fully disclose terms thereof, including interest rate, repayment schedule and dedication or circling of future income stream, if any. If services, disclose the method of valuation.

An organizational chart reflecting the foregoing as well as lists of the corporate officers and directors of the relevant entities are included below. The business address for each of the above entities, with the exception of A/N, is 400 Atlantic Street, Stamford CT, 06901.

Charter is a publicly held company and lacks the information to confirm how each of its shareholders obtained or paid for their shares or whether they used their shares as security to obtain funds to pay for them. Each of the intermediate holding companies obtained their interests in the other privately held holding companies through various restructuring transactions. For more information on how those interests are used to secure various debt held by Charter, please see response to Section IV.A.4.b.

As a good faith effort to identify major shareholders of Charter, the chart below identifies beneficial owners and institutional shareholders that are required to file notice of their ownership interests with the U.S. Securities and Exchange Commission ("SEC") and that have reported ownership of 1% or more of the outstanding shares of Charter Communications, Inc. via public filings with the SEC, as reported by Yahoo! Finance as of November 3, 2016.[5]

Owner Name	Number of Shares
Liberty Broadband Corp 12300 Liberty Blvd. Englewood, CO 80112	25,631,339
TCI Fund Management Ltd. 7 Clifford Street, London, UK W1S 2FT	11,592,824
Dodge & Cox, Inc. 555 California St. #4000 San Francisco, CA 94104	11,347,398
Berkshire Hathaway, Inc. 3555 Farnam Street Omaha, NE 68131	9,337,491

[5] Ownership data is based on information retrieved from Yahoo Finance and supplemented by a reasonable, good faith search of publicly available information.

Owner Name	Number of Shares
Vanguard Group, Inc. (The) 100 Vanguard Blvd. Malvern, PA 19355	9,136,358
FMR, LLC 245 Summer Street Boston, MA 02210	8,564,964
Dodge & Cox Stock Fund 555 California St. #4000 San Francisco, CA 94104	6,809,486
Capital World Investors 333 South Hope Street Los Angeles, CA 90071	6,208,062
BlackRock Institutional Trust Company, N.A. 400 Howard Street San Francisco, CA 94105	5,131,578
JP Morgan Chase & Company 270 Park Avenue New York, NY 10017-2070	4,960,449
Lone Pine Capital, LLC Two Greenwich Plaza - 2nd Floor Greenwich, CT 06830	4,792,408
State Street Corporation 601 Lexington Avenue - 48th Floor New York, NY 10022	4,412,594
Vanguard Total Stock Market Index Fund 100 Vanguard Blvd. Malvern, PA 19355	3,984,729
Growth Fund Of America Inc. 333 South Hope Street, 55th Floor Los Angeles, CA 90071	3,141,490

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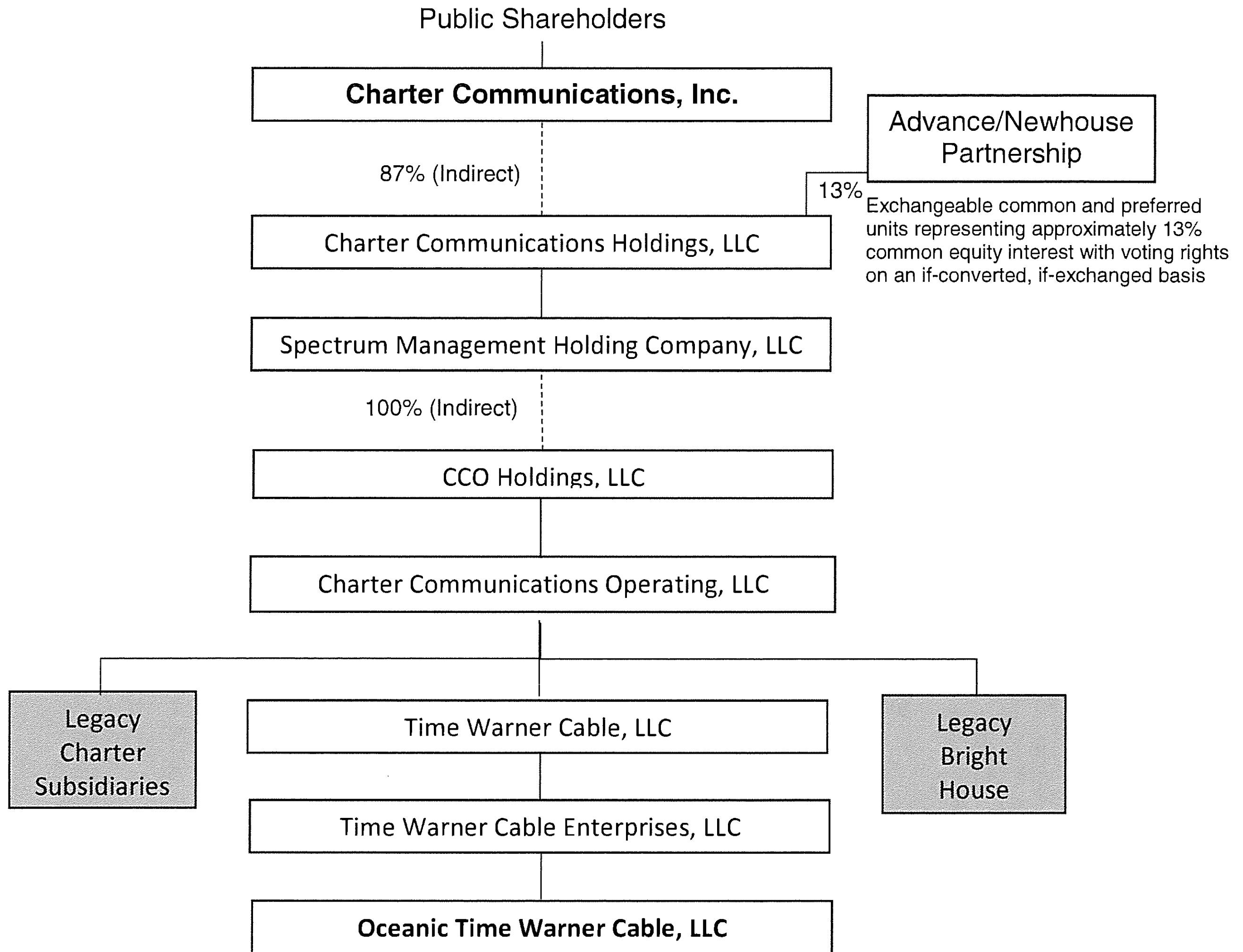
OCEANIC TIME WARNER CABLE LLC CORPORATE STRUCTURE[6]



[6] All ownership 100% direct unless otherwise noted.

OFFICER LIST

OCEANIC TIME WARNER CABLE LLC AND ALL OTHER CHARTER SUBSIDIARIES ON OCEANIC ORGANIZATIONAL CHART

As of December 7, 2016

OFFICERS*

*Thomas M. Rutledge	Chief Executive Officer
*John Bickham	President and Chief Operating Officer
*David Ellen	Senior Executive Vice President
*Christopher L. Winfrey	Executive Vice President and Chief Financial Officer
*Richard R. Dykhouse	Executive Vice President, General Counsel and Corporate Secretary
*Jonathan Hargis	Executive Vice President, Chief Marketing Officer
Thomas Adams	Executive Vice President, Field Operations
Michael Dwight Bair	Executive Vice President, Spectrum Networks
James Blackley	Executive Vice President, Engineering and Information Technology
Catherine C. Bohigian	Executive Vice President, Government Affairs
Richard J. DiGeronimo	Executive Vice President, Product and Strategy
David Kline	Executive Vice President, Advertising Sales
Paul Marchand	Executive Vice President, Human Resources
Kathleen Mayo	Executive Vice President, Customer Operations
Phillip Meeks	Executive Vice President, Business Enterprise Services
Thomas Montemagno	Executive Vice President, Programming Acquisition
James Nuzzo	Executive Vice President, Business Planning
David Scott Weber	Executive Vice President, Network Operations
*Kevin D. Howard	Senior Vice President, Finance, Controller, Chief Accounting Officer
Thomas E Proost	Senior Vice President, Deputy General Counsel and Assistant Corporate Secretary
Daniel J. Bollinger	Vice President, Associate General Counsel, Assistant Corporate Secretary

DIRECTORS OF CHARTER COMMUNICATIONS, INC.

*W. Lance Conn
*Kim C. Goodman
*Craig A. Jacobson
*Gregory B. Maffei
*John C. Malone
*John D. Markley, Jr.
*David C. Merritt
*Steven A. Miron
*Balan Nair
*Michael A. Newhouse
*Mauricio Ramos
*Thomas M. Rutledge
*Eric L. Zinterhofer

The business address for all officers and directors is 400 Atlantic Street, Stamford CT, 06901. No directors or officers hold an equity interest of more than 1% in Charter Communications, Inc.

* Section 16 Officer

2. General Ownership Information

To be completed by each organization or corporation which filled out Section IV.A above.

a. *List all principals, officers, corporate directors, and beneficial owners of one percent or more of your own stock or ownership interest.*

(For each name below that is the name of an organization or corporation, complete a new Section IV.A for the entity until all ownership interests are identified at the level of individual owners of one percent or more).

Name of Organization: ______________________________

Address: ______________________________
____
____

Name	Address	Capacity	Ownership (Percent)

Response: Please see response to Section IV.A.1.

3. Additional Information

a. *Is Applicant directly or indirectly controlled by another corporation or legal entity?*

Response: Yes. Oceanic is controlled by Charter, its ultimate parent company. Please also see response to Section IV.A.1.

b. *Provide a current organizational chart including any parent organizations and affiliates controlled by Applicant, showing the relationship between the Applicant, franchise holder and all principals and ultimate beneficial owners of the Applicant including all controlling/ownership entities in the change of command. The organizational chart should show all vertical and horizontal affiliates by degree or extent of control/ownership interest.*

Response: Please see response to Section IV.A.1. (Corporate structure).

c. *Detail agreements or procedures, if any, which assure that policy and operational control over the proposed cable television system shall remain vested in Applicant. Also provide complete description of all entities and organizations which may comprise or be part of or related to controlling business entity.*

Response: Ultimately, Oceanic's officers and directors will be responsible for directing Oceanic's operations (please see Section IV.A.1. for listing of officers and directors). However, local Oceanic personnel will continue to manage and be responsible for day-to-day operations.

4. Obligations of the Applicant

a. *Is any owner of any equity interest obligated or expected to be obligated to repay, guarantee or otherwise be responsible for any outstanding debt of Applicant? If recourse exists with respect to the assets of some but not all equity owners, disclose details of different treatment.*

Response: Oceanic currently does not have any outstanding debt and does not anticipate having any outstanding debt.

b. *Is Applicant obligated or expected to be obligated to repay, guarantee or otherwise be responsible for any outstanding debt of any equity interest in the Applicant? If recourse exists with respect to the assets of some but not all equity owners, disclose details of different treatment.*

Response: Oceanic, along with substantially all of Charter's operating subsidiaries and other Charter subsidiaries, is a guarantor of various debts and obligations held by Charter subsidiaries. Additionally, substantially all of Oceanic's assets, along with those of substantially all of Charter's operating subsidiaries and other Charter subsidiaries, are used to secure various secured credit facilities which are obligations of Charter subsidiaries.

Please see Charter's SEC Form 10-Q for the period ending September 30, 2016, attached as Exhibit A at 16-17, for

details related to Oceanic's obligations as a "Subsidiary Guarantor".

5. Ownership Disclosure

a. *Applicant, including all shareholders and parties with any financial interest in the Applicant, must fully disclose all agreements and understandings with any person, firm, group, association or corporation with respect to the ownership and control of the franchise, including but not limited to agreements regarding the management or day-to-day business of any material portion of the Applicant's cable operations. This includes agreements between local investors and national companies. Failure to reveal such agreements will be considered withholding of pertinent information and will be considered cause to withhold or revoke award of the franchise.*

Response: Please see Charter's SEC Form 10-Q for the period ending September 30, 2016, attached as Exhibit A and Section IV.A.5.d containing links to legacy Charter and legacy TWC's Form 10-K filings for the year ending December 31, 2015, for ownership disclosure information.

b. *Please append copies of any written agreements made regarding the ownership or control of the cable system. Use the space provided to outline any oral agreements or understandings regarding the ownership or control of the cable system. Indicate the existence and description (including price and time-of-exercise provisions) of stock options, buy-out agreements, buy-back or exchange of stock (or other interests) or options that could affect the ownership structure of Applicant. Treat specifically the possible effects on the interests of minority owners and local investors. (A "local investor" shall mean any individual who resides within the State of Hawai`i or any corporation, partnership or business association owned or controlled by any individual(s) who reside in such area.)*

Response: Oceanic does not have any written or oral agreements or understandings regarding the ownership or control of the cable system.

c. *Provide all agreements, documents or other materials covering relationships, interest rights and responsibilities for ownership entities other than a corporation, including but not limited prospectuses, offering statements, solicitations and repayment agreements.*

Response: None.

d. *Please provide the most recent Form 10-K, if any, for all related or controlling entities of Applicant.*

Response: On May 18, 2016 the merger transaction between Charter and Oceanic's former parent TWC closed resulting in Charter as the controlling entity. Consequently, the information contained in Charter's SEC Form 10-Q for the period ending September 30, 2016, attached as Exhibit A, provides a more accurate description of the company today than the SEC Form 10-Ks filed for the year ending December 31, 2015 by legacy Charter and legacy TWC. A link to Charter's SEC Form 10-Q for the period ending September 30, 2016 is also provided below:

Q3 2016 SEC Form 10-Q for Charter (post-merger):

https://www.sec.gov/Archives/edgar/data/1091667/000109166716000576/0001091667-16-000576-index.htm

As a background reference, Oceanic submits the following:

2015 SEC Form 10-K for legacy Charter (pre-merger):

https://www.sec.gov/Archives/edgar/data/1091667/000109166716000396/0001091667-16-000396-index.htm

2015 SEC Form 10-K for legacy TWC (pre-merger):

https://www.sec.gov/Archives/edgar/data/1377013/000119312516461316/0001193125-16-461316-index.htm

6. Future Ownership Issues

Provide a complete description of any pending or planned changes in the ownership structure of the Applicant including such changes pending or planned for any ownership interests in the Applicant or any of its parent companies.

Response: No pending or planned changes to Oceanic's ownership structure are contemplated at this time.

B. Character Qualifications

Please provide the following information about Applicant and any controlling entities (hereinafter collectively referred to in this section as "Applicant"). Please identify all controlling entities for which information is provided.

For the ten-year period immediately preceding the filing of the application, please provide the following information as to Applicant:

1. Has any court entered any judgment, decree or order which determined that Applicant engaged in any activity that involved:

a. unfair or deceptive trade practices, perjury, fraud, dishonesty, organized crime or racketeering; or

Response: No.

b. violation of applicable federal, state, or local cable communications law or rules; or

Response: Please see Exhibit B.

c. violation of cable franchise provisions; or

Response: No.

d. violation of the rules, regulations, codes of conduct, or ethics of a self-regulatory trade or professional organization?

Response: No.

e. If so, please describe each such judgment, order or decree and provide a copy thereof.

Response: Please see Exhibit B, Exhibit C-1, and Exhibit C-2.

2. Has any administrative entity made any finding or entered any order or decree which determined that Applicant engaged in any activity that involved:

   a. unfair or deceptive trade practices, perjury, fraud, dishonesty, organized crime or racketeering; or

      Response: No.

   b. violation of applicable federal, state, or local cable communications laws or rules; or

      Response: In the normal course of its business, Applicant may have occasionally received notices of alleged non-compliance related to franchises held across the nation. There are no such matters that are relevant or material to the Kauai franchise or that will affect the franchise performance of Oceanic. Please also see Exhibit B for additional information responsive to this item.

   c. violation of cable franchise provisions; or

      Response: Please see response to Section IV.B.2.b above.

   d. violation of the rules, regulations, codes of conduct, or ethics of a self-regulatory trade or professional organization?

      Response: Please see response to Section IV.B.2.b above.

   e. If so, please describe each such finding, order or decree and provide a copy thereof.

      Response: Please see Exhibit B, Exhibit C-1, and Exhibit C-2.

3. *Has Applicant or any of its officers, directors, or management employees been convicted of any felony criminal offense, which involved perjury, misrepresentation, fraud, theft, or bribery? If so, please provide full information concerning each such condition.*

Response: Neither Oceanic, Charter, nor any of their officers or directors have been convicted of any felony criminal offense, which involved perjury, misrepresentation, fraud, theft, or bribery.

4. *Has any cable television franchise held by Applicant been suspended or revoked? If so, please state the relevant circumstances for each such suspension or revocation.*

   Response: No.

5. *Has any application submitted by Applicant for a new cable television franchise been denied or withdrawn after receipt of a formal or informal notice of intent to deny? If so, please state the relevant circumstances for each such denial or withdrawal.*

   Response: No.

6. *Has any application for a transfer of a cable television franchise to Applicant been denied or withdrawn after receipt of a formal or informal notice of intent to deny? If so, please state the relevant circumstances for each such denial or withdrawal.*

   Response: Please see Exhibit B.

7. *Has any application submitted by Applicant for a renewal of a cable franchise been denied or withdrawn after receipt of a formal or informal notice of intent to deny? If so, please state the relevant circumstances for each such denial or withdrawal.*

   Response: No.

C. Financial Qualifications

1. Applicant's Financial Statements (HAR §16-131-44(4))

   Provide the latest audited financial statements of the Applicant that have been audited by an independent Certified Public Accountant. Such audited financial statements are to be full disclosure financial statements prepared in accordance with Generally Accepted Accounting Principles and contain at a minimum, Balance Sheets, a Statement of Income, a Statement of Changes in Equity, a Statement of Cash Flows, and a full set of related footnotes.

Response: Charter's most recent audited financial statements were filed for the year ending December 31, 2015, prior to Charter's merger with TWC. As such, Oceanic believes that Charter's SEC Form 10-Q for the period ending September 30, 2016, attached as Exhibit A, at 1-42, containing unaudited financial statements, is the most responsive to this question.

Please also see response to Section IV.A.5.d containing links to legacy Charter and legacy TWC's Form 10-K filings for the year ending December 31, 2015.

Oceanic does not have audited financial statements.

2. Source of Financing

Describe in detail financing plans for any new construction, expansion and the continuing operation of the Applicant's cable system. Document the debt or financing that is to be provided by any funding organization. If the funding is to be provided through any parent, then the ability to obtain financing and sources of the parent must be documented.

Response: Oceanic believes that cash generated by, or available to, Oceanic and its parent should be sufficient to fund its capital and liquidity needs for the foreseeable future. Please also see Charter's SEC Form 10-Q for the period ending September 30, 2016, attached as Exhibit A, at 33-40.

3. Terms of Financing

Provide details of the terms of any financing arrangements with Applicant's parent company or any other affiliated entities, if any.

Response: Oceanic does not contemplate a need for financing arrangements.

4. Operator Liability

Will any other entity besides the Applicant be legally liable for the obligation and performance of the Kauai County system?

If the Applicant proposes that persons or entities other than the Applicant shall be legally liable for the obligations and performances of the Kauai County system, provide complete financial data for said persons or entities or indicate where such

data is located in the application, and state clearly the degree to which they will incur such liability.

Response: No. Oceanic will continue to operate as an indirect, wholly-owned subsidiary of Charter. Oceanic's financial and technical qualifications are described in detail herein and in the Ascertainment Report. As also indicated in financial statements submitted to the DCCA in connection with the current franchise, the Kauai systems are well established and successful business operations fully capable of meeting their financial obligations with the revenues they generate. Oceanic expects that will remain so through the proposed renewal term.

5. Documentation of Financial Viability

Provide an annual report and SEC Form 10K for Applicant's parent company.

Response: Please see Charter's 2015 Annual Report to Stockholders at:

http://ir.charter.com/phoenix.zhtml?c=112298&p=irol-reportsannual

For Charter's SEC Form 10-K, please see response to Section IV.A.5.d above.

6. Contact in Outside Audit Firm

For Applicant, any parent company, and the principals, provide the name, title, address and telephone number of an appropriate contact person in each outside audit firm utilized within the past five years.

Response: Charter's outside auditor covering Hawai`i is Brown Smith Wallace LLP. The contact person is Steve Schueppert whose address is 6 City Place Drive, Suite 900, St. Louis, MO 63141 and whose telephone number is (314) 983-1251.

TWC's outside auditor covering Hawai`i has been Ernst & Young, LLP. The contact person is Andrew Brock whose address is 55 Ivan Allen Blvd NW #1000, Atlanta, GA 30308 and whose telephone number is (404) 874-8300.

Charter is represented by counsel and all communications regarding this Franchise Renewal Application must be addressed to Yamamoto Caliboso LLLC, 1099 Alakea Street, Suite 2100, Honolulu, HI 96813.

7. Subscriber and Service Projections

a. Basis of Subscriber Penetration

Explain how Applicant's subscriber and penetration figures are obtained.

Response: We count and report video customers based on the number of billed video primary service units. Penetration represents residential and small and medium business customers as a percentage of estimated passings. Passings represent our estimate of the number of units, such as single family homes, apartment and condominium units and small and medium business and enterprise sites passed by our cable distribution network in the areas where we offer the service indicated.

b. Projected Growth of Other Services

Describe in detail the development and projected growth of any service other than basic and pay cable. Be specific on the sources and growth of each component of revenues from all "other" services.

Response: As noted in Charter's Third Quarter 2016 Results,[7] on a *pro forma* basis, Charter's third quarter 2016 revenues rose 7.4% year-over-year to $10.0 billion, driven primarily by growth in Internet (a non-jurisdictional service), commercial and video revenues. Video revenues totaled $4.1 billion in the third quarter, an increase of 3.0% on a *pro forma* basis compared to the prior year period. *Pro forma* video revenue growth was driven by annual and promotional rate adjustments and higher advanced services penetration. On a *pro forma* basis, Internet revenues grew 12.7%, compared to the year-ago quarter, to $3.2 billion, driven by an increase of 1,601,000 Internet customers during the last year, promotional rolloff and price adjustments. Voice

[7] *See* Charter Comm'ns, Inc., 3Q 2016 Earnings Results (11/3/16), *available at* http://ir.charter.com/phoenix.zhtml?c=112298&p=irol-earnings.

revenues totaled $728 million in the third quarter, an increase of 3.0% on a *pro forma* basis compared to the third quarter of 2015, due to the addition of 633,000 voice customers in the last twelve months, partially offset by promotions and value-based pricing. Commercial revenues rose to $1.4 billion, an increase of 12.1% on a *pro forma* basis over the prior year period, driven by SMB revenue growth of 13.2% and enterprise revenue growth of 10.1%. Third quarter advertising sales revenues of $419 million increased 12.1% on a *pro forma* basis compared to the year-ago quarter, primarily driven by an increase in political advertising revenue. Charter's *pro forma* trending schedule for Q1 2014 through Q3 2016, including metrics for primary service units, revenues, operating costs and other pertinent data, is attached as Exhibit D.

For Charter's statements regarding potential opportunities for revenue growth, and the risks associated with those opportunities, please see Charter's 2015 Annual Report to Stockholders, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations, at p. 46, and other documents filed with the SEC. Please see response to Section IV.C.5, for a link to Charter's annual report.

D. Technical Qualifications and Plans

1. In separate studies done by DCCA and its consultants during the renewal, the financial and technical qualifications of the Applicant have been addressed, through an examination of the Oceanic's system and technical operations, and existing information on the financial resources and operations of Oceanic and its corporate parents. (i.e., see consultant's report to DCCA, *Community Ascertainment and Related Activities*, April 5, 2016). In addition, pursuant to HAR §16-131-43 through §16-131-50, Oceanic has submitted periodic reports, and DCCA has regularly monitored Oceanic revenues and system technical performance information throughout the term of the current franchise.

2. The following specific additional information is requested, regarding current and planned system design and operations:

   a. Residential system

i. *Provide details on the following for cable television service to residential subscribers:*

1) *Capacity, design, technology, performance and architecture;*

Response: The capacity and design of Oceanic's cable system remains virtually intact, as the original HFC technology continues to support the demand for more channels and services. The current HFC technology, which is scalable and robust, is anticipated to support current and future advanced services, in part by building fiber further into neighborhoods, and by decreasing the size of the service areas to less than the original 500 home per-node design in the original HFC plan. As the fiber reach is increased, the overall system reliability is expected to continue to increase (as reflected by smaller and shorter term outages) because fewer active devices (amplifiers) will be needed to reach residential customers.

2) *Service area;*

Response: Oceanic anticipates that residential service areas served by individual system nodes will continue to get smaller as fiber moves closer to the home, which should result in increased reliability and performance.

3) *Underground policy;*

Response: Oceanic expects its underground policy for the cable system to remain unchanged. Specifically, Oceanic intends to continue following the generally accepted practice of undergrounding for all new residential subdivisions where utility infrastructure is placed underground, while also participating in reasonable and non-discriminatory undergrounding efforts as prescribed by the State of Hawai`i, Kauai County and various utilities and special project needs.

4) *Construction plans and construction complaint resolution;*

Response: Construction standards will continue to comply with all existing applicable laws and standards as set forth for such work according to the national electrical codes and the State of Hawai`i.

5) *Interconnection;*

Response: Oceanic will interconnect its Kauai system with other parts of its cable system as may be reasonably necessary and prudent in its determination to improve service and reliability and enhance the customer experience for its subscribers.

6) *System monitoring and maintenance.*

Response: Oceanic has a Technical Quality Assurance program in place that provides for head-end and system maintenance activities. Maintenance of the system will continue to comply with all FCC rules and regulations for leakage and system performance. In addition, Oceanic's field personnel visually inspect all plant at regular intervals and replace or upgrade facilities as necessary. Oceanic has upgraded and expanded its system monitoring, and all devices in the home (digital converters and modems) are monitored from the main office to check for outages and system degradation, including non-performing devices, through a Network Status Monitor that is manned 24 x 7 x 365. Customer service representatives also have the ability to access in-home information while the customer is on the line to determine any remedies that can be provided while the call is taking place.

b. Equitable Extension of Service policy -- provide the following information concerning policies related to the extension of cable television service to residential subscribers:

i. *Describe your proposed policy about cable service being available to all subscribers in the franchise area.*

Response: Oceanic's current policy for extension of cable service to unserved areas will continue. Oceanic will extend the HFC architecture to all areas

where there are a minimum of 25 homes per aerial mile of strand cable, measured from the point at which the company determines is appropriate for tie-in, which may be the point of node distribution or amplification along the existing network. Oceanic will monitor requests from underdeveloped areas annually to determine if any new construction of homes has occurred to meet the criteria for minimum extensions of plant. Additionally, Oceanic will extend a service drop without charge to a resident for up to 200' and will provide an estimate for a service drop installation only for the additional cost beyond the 200' limit.

ii. *Comment on policy requiring cable service to be coextensive with telephone and electric service, and other service providers such telecommunication services.*

Response: While electric service is currently necessary before Oceanic can extend the cable system into a service area (because some form of sustainable power is required to keep the HFC plant operable), Oceanic may elect to extend cable service to a community without telephone service as long as it meets the 25 home per mile criteria set forth above.

iii. *Describe plans to provide cable service to those portions of the franchise area which are presently without service.*

Response: As noted above, Oceanic will continue to extend cable service to all new developments in the franchise area that meet the minimum 25 home per mile criteria as set forth above.

c. Discuss analog and digital channel capacity plans, both short-term and long-term, including specific information regarding the degree of flexibility for adapting the existing and anticipated future system to changing capacity requirements.

Response: Distribution technology is rapidly evolving from analog to digital due to digital information processing flexibility, quality and distribution efficiency.

In addition to complying with the requirements contemplated by D&O 366, Oceanic anticipates reallocating network capacity and adding significantly more HD and VOD options. Oceanic's parent, Charter, has converted its pre-transaction, legacy Charter service area to all-digital and intends over time to transition virtually all of the Oceanic network to all-digital as described in Charter and Oceanic's All-Digital Network Transition Plan for Hawaii filed with DCCA on November 16, 2016.

By way of background concerning digitization, Charter has an established history of investing in cable technology and infrastructure. Charter invested over $5.5 billion in its cable systems from 2012 through 2015. Charter's conversion to all-digital networks has enabled it to grow its HD channel line-up from fewer than 70 channels in 2011 to a present selection of over 200, and to grow its VOD library to thousands of choices. Oceanic, with Charter's support, anticipates continuing to operate the Kauai cable system with the flexibility necessary to adapt to new services and technology throughout the next franchise period.

d. Description of Video Services

For each video service, provide a short narrative description. Identify each service by cable channel number and identification of call letters, service name or network or general description, and tier of service. If Applicant proposes to have shared channels, describe the daily time division and the proposed duration of each sharing.

Response: Please see response to Section IV.D.2.c. Please see the current Oceanic Digital Channel Lineup for Kauai, attached as Exhibit E.

E. Emergency Alert System

Describe your existing and/or proposed Emergency Alert System including make and model numbers of equipment. Indicate whether system will override all audio and video channels or only audio channels. Also indicate how the system will be activated and from where.

Response: The Kauai emergency alert system currently operates from KSSK (92.3 FM Oahu), also from the 162.55 NOAA weather station, and from KQNG (720 AM Kekaha). The system provides for audio override

with a visual crawl, and a national alert will trigger a force-tune of digital set-top boxes to a local channel. Oceanic maintains a generator at its headend and hubs for standby power. The Kilauea OTN relies on battery power; however, Oceanic is implementing plans to redesign the system to eliminate the Kilauea OTN, as detailed in Section II.F., which it expects will improve the reliability of the emergency alert system and the network overall. No other changes are anticipated at this time. If necessary during the term of the franchise, Charter will replace or repair its EAS equipment to ensure that it continues to comply with all FCC requirements for EAS systems.

F. Institutional network ("I-Net")

1. Provide details on the following for the I-Net:

a. *Capacity, design, technology, performance and architecture;*

Response: Over the current franchise period, Oceanic has cooperated with the state in continuously providing and maintaining the I-Net. The system uses a dark fiber that is single mode for the I-Net's purposes, and is ring-star configured as requested by the state.

The I-Net uses a dense wave division multiplexed (DWDM) gigabit Ethernet as well as legacy synchronous optical network (SONET) equipment.

The terminal equipment, which is the primary factor in consideration of the capacity of the system, is selected and installed by the state, and can be changed or upgraded by the state to improve system performance.

b. *Interconnection;*

Response: Interconnection of the I-Net to Oceanic's broader cable system will continue to be supported by Oceanic as reasonably required. Limitations on interconnections will continue to be geographical and under the constraint of available resources and infrastructure for fiber connectivity.

c. *Technical support;*

Response: Oceanic will continue to maintain qualified technicians for the purpose of maintaining the I-Net as required from a physical

plant perspective. Personnel will be available on a 24 x 7 x 365 basis.

d. *Construction plans;*

Response: Oceanic has no construction plans at this time. Please see response to Section IV.F.2 below.

e. *Staffing; and*

Response: Please see response to Section IV.F.1.c above.

f. *System monitoring and maintenance.*

Response: Active monitoring of the I-Net infrastructure is (and will continue to be) accomplished by monitoring parallel fiber strands along the I-Net fiber routes. This monitoring is being performed by the JDSU Optical Network Monitor System, and is supported by the system Network Operations center on a continuous basis.

2. *Provide details on future technology and expansion of I-Net. At a minimum, please address items/issues identified in the report Community Ascertainment and Related Activities, dated April 5, 2016.*

Response: The Ascertainment Report did not identify any issues relating to the I-Net on Kauai and noted that the robust system serves over thirty locations on Kauai, including elementary, middle and high schools, Kauai Community College, Kauai libraries and community centers and other government buildings. Oceanic notes that the University of Hawai`i submitted testimony to the DCCA supporting the renewal of Oceanic's franchise on Kauai and notes that the University of Hawai`i, together with the state Department of Accounting and General Services and the Department of Education, have "a long standing and highly successful working relationship with Oceanic through the I-Net agreement to provide critical and essential services to support statewide connectivity in support of our collective operations."

Given the maturity of the Kauai I-Net system (as documented in the Ascertainment Report), Oceanic does not believe the Ascertainment Report supports the provision by Oceanic of additional I-Net interconnections in the Kauai franchise, the installation by Oceanic of new or additional equipment, or any

obligation to upgrade or rebuild the existing I-Net during the franchise term.

Oceanic respectfully notes that, as the DCCA is aware, the FCC has held that LFA requests for I-Net (and PEG) support may not be unreasonable, and in-kind mandatory payments required by an LFA (which are unrelated to the provision of cable services) are not expenses that are "incidental" to the award or enforcement of a cable franchise, and thus count towards the five percent franchise fee cap.[8] Oceanic is looking forward to discussing with DCCA commercially reasonable terms regarding the maintenance and use of, and signal transport on, the I-Net.

G. Local Origination Programming

Provide details on Applicant's plans for future local origination programming.

Response: Oceanic plans to continue local origination programming to the extent that it determines these services to provide value to its customers. During the current franchise period, Oceanic expanded its reach and coverage of OIA, PacWest, ILH and HHSAA sporting events, mostly in HD. In 2009, Oceanic acquired a satellite uplink truck enabling expanded telecasts from diverse communities across the state. Increasingly more Hawai`i athletes receive recognition and college scholarships due to the exposure they receive on OC16 telecasts, which are aired live in Hawai`i and worldwide via Oceanic's OC16.tv website.

Oceanic's 100% local, 100% original guideline has allowed aspiring local producers opportunities to be on air and to continually improve their craft. To date, Oceanic works with over 30 local producers who air their shows on OC16. These producers have won video awards and recognition by national organizations.

Oceanic continues to add high quality local entertainment programming, and is approached by top producers and community groups to produce and air concerts and specials.

The OC16.tv web site has grown in popularity worldwide and continues to update and add new features such as local news, surf reports and

[8] *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992, Report and Order and Further Notice of Proposed Rulemaking*, 22 FCC Rcd 5101, 5149, 5151 (2006).

weather, a coupon page offering local merchant discounts, the sale of OC16 and other Hawaiian merchandise, clips of local programs that can be seen on hand-held devices, and numerous other features. Oceanic and OC16 have been recognized for its community involvement and local programming that reaches out to Hawai`i and the world.

Oceanic is also proud offer Ōiwi TV, the first and only Native Hawaiian television station, offering a wide variety of programming for the entire family. In 2009, Ōiwi TV partnered with Oceanic, Kamehameha Schools, and the Aha Punana Leo to make the station a reality. Ōiwi TV is Native Hawaiian owned and operated – empowering people to assert their Native Hawaiian identity and promote outcomes that benefit our community, our natural resources, and most importantly our future generations.

H. Public, Educational, and Government (PEG) Access

1. PEG Access Transmission and Distribution Network

Provide information on the following for PEG access:

a. *Capacity, design, technology, performance, architecture;*

Response: Pursuant to the current Kauai franchise and related statewide requirements, two linear public access channels are managed by Hoike (Channels 53 and 54), two linear education channels are managed by the University of Hawai`i ("UH") (Channels 354 and 355), and one linear education channel is managed by the Hawai`i Department of Education (Channel 356). Additionally, the state government manages one Hawaii government VOD channel (Channel 50) and UH manages one UH distance learning VOD channel (Channel 358). Please see the Community Ascertainment and Related Activity report dated April 5, 2016 for additional information on the current PEG channels.

b. *Interconnection and technical support;*

Response: Interconnection of the PEG channels with Oceanic's system and reasonable technical support is expected to remain consistent with that currently required and provided.

c. *Construction plans; and*

Response: Oceanic does not anticipate any changes to present sites.

d. *System monitoring and maintenance.*

Response: System monitoring and maintenance for public access channels is not expected to change.

2. *Provide Applicant's plan for operating funding and capital payments for facilities and channels for access facilities.*

Response: Consistent with the Cable Act, Oceanic intends to provide adequate operating and capital funding to Hoike to reasonably meet the community's cable-related needs and interests, while taking into account the costs of doing so.

The Ascertainment Report did not identify or justify compelling community needs or interests relating to PEG. There were only two written responses to the community questionnaire and only one person who testified during the public hearings.

Oceanic proposes to provide adequate operating support to Hoike within, and subject to, the five percent franchise fee cap.[9] Although PEG capital costs are not subject to the five percent franchise fee cap, PEG capital costs are subject to the Cable Act's "reasonableness" requirement, must be used for lawful PEG capital purposes, must relate to demonstrated PEG-related community needs, and must be evaluated in light of the cost of meeting those demonstrated needs.[10]

While the Ascertainment Report noted generally that Hoike is seeking "better facilities and studio space," the report did not otherwise identify any specific needs for capital funding.[11] In addition, DCCA, as part of evaluating the reasonableness of PEG capital funding on Kauai for the next franchise period, should also consider, among other factors: (1) the dramatic changes in the video programming market in recent years; (2) the ubiquity of alternate sources of information, and advances in video production

[9] *See also,* Section IV.F.2, note 4.

[10] 22 F.C.C. Rcd. 5101, 5152.

[11] Ascertainment Report, at 6.

technology, which permits virtually anyone to produce and disseminate information world-wide (not just within a cable system) by using relatively inexpensive equipment, and without the need for expensive studios and related equipment; (3) the level of existing resources (including any cash reserves) available to Hoike as a result of capital funding over the last franchise period; (4) the public benefit that is provided by expenditures on PEG capital projects, including the frequency and extent to which the public uses PEG facilities and equipment; and (5) the impact of PEG capital funding to Kauai subscribers as a whole.

In addition, there are more ways that consumers get their television content today than during the time that PEG was initially authorized in Kauai, including from providers that do not provide PEG services at all, such as satellite and over-the-top distributors like Netflix and Hulu. As a result, utilizing PEG for dissemination of information and content is no longer as ubiquitous an outlet for this information. These trends are likely to continue into the foreseeable future.[12] It also creates competitive burdens on cable operators who support these interests through their franchise, while other similarly situated providers are not subject to these costs and obligations.

Given the foregoing, Oceanic believes, at a minimum, that there is no justification to exceed the current level of capital funding to Hoike of $3.00 per subscriber per year,[13] and Oceanic looks forward to discussing with the DCCA, based on additional information from Hoike and other factors, a reasonable and adequate level of PEG capital funding for the next franchise period, including whether $3.00 per subscriber per year is still an appropriate amount.

Additionally, Oceanic's collection and remittance of any PEG capital funding will be contingent on the use of such PEG access funds for capital costs only, as defined under federal law. Oceanic looks forward to discussing terms that ensure PEG capital funding is not used on operational costs or expenditures that are not considered capital expenditures under GAAP, on equipment purchased to stream programming over the Internet or deliver PEG content to individuals who are not Oceanic customers, for operational costs, or on PEG transport costs. Those terms should also assure that Hoike is responsible for installing, operating, maintaining and labor

[12] *See* Seventeenth Report, 31 FCC Rcd 4556, ¶ 196.

[13] Decision and Order No. 345 (December 8, 2009).

for replacing the PEG equipment purchased as necessary, without using PEG capital funds to do so. Oceanic also looks forward to discussing terms related to Hoike's provision of regular reports (at least once annually) to Oceanic detailing how PEG capital funding was used during the preceding period, including terms allowing Oceanic's duly authorized representative to examine during normal business hours and on a non-disruptive basis, any and all records, equipment and facilities to assess the use of PEG capital funds.

3. *Proposed plans for PEG access --at a minimum, please address items/issues identified in the report Community Ascertainment and Related Activities, dated April 5, 2016.*

Response: The Ascertainment Report did not identify any significant issues relating to Oceanic's current support of PEG access on Kauai. As noted above, Oceanic believes that the provision of PEG access facilities and equipment must be determined consistent with the mandates of the Cable Act, and within the context of existing and future technology, the demand for public access programming, changes in the video programming marketplace, and the long-term interests of all Kauai subscribers. Please see response to Section IV.H.2 above.

Although one of the two respondents to the Ascertainment Report's questionnaire indicated that the number of PEG channels should be increased (the other respondent indicated that the number of PEG channels was about right), Oceanic believes that the seven PEG channels currently available on Kauai are more than adequate and sufficient to meet the needs of Kauai residents and that DCCA should discuss with Oceanic whether the number of channels should be reduced.[14] Oceanic thus proposes to continue the discussion regarding PEG channels, including the reclamation of unused or underused channel capacity, reserving flexibility to convert PEG access channel signals to different technical formats in its sole discretion.

As noted in the Ascertainment Report (p. 12), and as required by Decision and Order No. 356, Oceanic is willing to discuss with the DCCA reasonable terms associated with the provision of a digital channel or alternate content delivery service dedicated to delivery of content and live video with audio provided by the University of

[14] *See* Section IV.F.2.

Hawai`i Community College. As discussed in Sections IV.H.2 and IV.F.2, Oceanic believes that, at a minimum, there is no justification or demonstrated need for increasing the current level of PEG capital or franchise fee expenses associated with PEG support costs or in-kind services. Any expenses associated with this specific requirement should not cause Oceanic's total PEG-related support and capital expenditures associated with the Kauai franchise to exceed the current level. If any change to expenditures was contemplated, Oceanic believes those expenditures should decrease based on changes in the video programming marketplace and the emergence of readily-available equipment and Internet-based platforms for the production and distribution of high-quality video programming.

Please also see responses to Section IV.H.1 and IV.H.2.

I. Customer service operations

Please provide details concerning specific standards and practices with respect to location of offices, staffing, installation, repair, telephone response, billing, handling of complaints, service cancellation and changes.

Response: Oceanic's customer service policies can be viewed at: http://help.twcable.com/. Please also see the Ascertainment Report for further information on Oceanic's customer service practices.

Oceanic currently maintains a full-service customer service center in Lihue and a payment center in Princeville. Oceanic looks forward to discussing with DCCA reasonable alternative methods for conveniently serving its customers' needs during the term of its next franchise, including by offering convenient options to pay bills or exchange equipment without charge, providing a 24-hour, toll-free customer service telephone number with company personnel capable of handling complaints and inquiries 7 days per week, or contracting with one or more third party agents in Kauai that are capable of receiving payments from Oceanic's subscribers.

The Ascertainment Report did not identify specific issues relating to Oceanic's customer service on Kauai, and the report noted that Oceanic has been in compliance with all franchise and other DCCA requirements relating to customer service. Still, Charter, through Oceanic, is focused on delivering a high-quality customer service experience for all of its subscribers on Kauai and statewide. Charter believes that delivering excellent customer care contributes to customer satisfaction and lasting customer relationships. In addition, as noted above, Charter is known for,

and will continue to implement, its customer-friendly pricing, billing practices, and policies on Kauai and throughout the state.

J. Other

Provide Applicant's comments and proposals regarding the report Community Ascertainment and Related Activities, dated April 5, 2016.

Response: Over the years, Oceanic has diligently and substantially complied with all the material terms of its existing franchise and with applicable law, and has made significant investments and upgrades to the Kauai system. Oceanic's efforts have gone far beyond the minimum requirements of its existing franchise and beyond that which would be expected of a good corporate citizen. Oceanic's continuous introduction of innovative technologies evidences Oceanic's commitment to provide subscribers with reliable and greater breadth of programming and other cable service enhancements.

Charter, through Oceanic, is looking forward to building upon Oceanic's long history on Kauai and throughout the state by continuing to offer advanced services, customer-friendly practices, and first-rate customer service and support.

In support of this Application, Oceanic relies upon this complete submission and the entire record and file maintained at the Department of Commerce and Consumer Affairs, Cable Television Division, pertaining to Oceanic.

INDEX OF EXHIBITS

A. Form 10-Q, Charter Communications, Inc., Period Ended Sept. 31, 2016

B. List of Court and Administrative Matters Responsive to Section IV.B

C-1. Community Antenna Service, Inc. v. Charter Communications, VI, LLC Orders

C-2. FCC SDV Notices of Apparent Liability and Orders

D. Charter Trending Schedule, Q1 2014 through Q3 2016

E. Oceanic Digital Channel Lineup for Kauai dated April 5, 2016

EXHIBIT A

Form 10-Q, Charter Communications, Inc., Period Ended September 31, 2016

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

(Mark One)

☒ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended September 30, 2016

or

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the Transition Period From to
Commission File Number: 001-33664

Charter Communications, Inc.
(Exact name of registrant as specified in its charter)

Delaware	**84-1496755**
(State or other jurisdiction of incorporation or organization)	*(I.R.S. Employer Identification Number)*
400 Atlantic Street **Stamford, Connecticut 06901**	**(203) 905-7801**
(Address of principal executive offices including zip code)	*(Registrant's telephone number, including area code)*

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrants have submitted electronically and posted on their corporate website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrants were required to submit and post such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☒ Accelerated filer ☐ Non-accelerated filer ☐ Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes ☐ No ☒

Number of shares of Class A common stock outstanding as of September 30, 2016: 270,665,391

Number of shares of Class B common stock outstanding as of September 30, 2016: 1

Charter
COMMUNICATIONS

CHARTER COMMUNICATIONS, INC.
QUARTERLY REPORT ON FORM 10-Q FOR THE PERIOD ENDED SEPTEMBER 30, 2016

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This quarterly report on Form 10-Q is for the three and nine months ended September 30, 2016. The United States Securities and Exchange Commission ("SEC") allows us to "incorporate by reference" information that we file with the SEC, which means that we can disclose important information to you by referring you directly to those documents. In this quarterly report, "Charter," "we," "us" and "our" refer to Charter Communications, Inc. and its subsidiaries.

EXHIBIT A

Explanatory Note

On May 18, 2016, Charter Communications, Inc. (formerly known as CCH I, LLC, the "Company" or "Charter") completed its previously reported merger transactions among Charter, Time Warner Cable Inc. ("Legacy TWC"), Charter Communications, Inc. ("Legacy Charter"), and certain other subsidiaries of Charter (the "TWC Transaction"). Also on May 18, 2016, Charter completed its previously reported acquisition of Bright House Networks, LLC ("Legacy Bright House") from Advance/Newhouse Partnership (the "Bright House Transaction," and, together with the TWC Transaction, the "Transactions"). As a result of the Transactions, Charter became the new public parent company that holds the combined operations of Legacy Charter, Legacy TWC and Legacy Bright House and was renamed Charter Communications, Inc. The financial statements presented in this quarterly report reflect the operations of Legacy Charter through May 17, 2016 and the Company on and after May 18, 2016. See Part I, Item 1. Financial Statements, Notes to Consolidated Financial Statements, Note 2, "Mergers and Acquisitions - Selected Pro Forma Financial Information" for certain financial information presented as if the Transactions had closed on January 1, 2015. Also see Exhibit 99.1 in this Quarterly Report on Form 10-Q for the three and nine months ended September 30, 2016 for pro forma financial information for each quarter of 2015 and the first and second quarter of 2016. Throughout this report references to the "Company" or to "Charter" refer to the combined company following the completion of the Transactions.

As a result of the Transactions and by operation of Rule 12g-3(c) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), Charter is the successor issuer to Legacy Charter and succeeds to the attributes of Legacy Charter as the registrant. Charter's Class A common stock is deemed to be registered under Section 12(b) of the Exchange Act, and Charter is subject to the Exchange Act to the same extent as Legacy Charter.

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS:

This quarterly report includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), regarding, among other things, our plans, strategies and prospects, both business and financial including, without limitation, the forward-looking statements set forth in the "Results of Operations" and "Liquidity and Capital Resources" sections under Part I, Item 2. "Management's Discussion and Analysis of Financial Condition and Results of Operations" in this quarterly report. Although we believe that our plans, intentions and expectations as reflected in or suggested by these forward-looking statements are reasonable, we cannot assure you that we will achieve or realize these plans, intentions or expectations. Forward-looking statements are inherently subject to risks, uncertainties and assumptions including, without limitation, the factors described under "Risk Factors" under Part II, Item 1A of this quarterly report on Form 10-Q. Many of the forward-looking statements contained in this quarterly report may be identified by the use of forward-looking words such as "believe," "expect," "anticipate," "should," "planned," "will," "may," "intend," "estimated," "aim," "on track," "target," "opportunity," "tentative," "positioning," "designed," "create," "predict," "project," "initiatives," "seek," "would," "could," "continue," "ongoing," "upside," "increases" and "potential," among others. Important factors that could cause actual results to differ materially from the forward-looking statements we make in this quarterly report are set forth in this quarterly report on Form 10-Q, in our annual report on Form 10-K, and in other reports or documents that we file from time to time with the SEC, and include, but are not limited to:

Risks Related to the recently completed Transactions:

- our ability to promptly, efficiently and effectively integrate acquired operations;
- managing a significantly larger company than before the completion of the Transactions;
- our ability to achieve the synergies and value creation contemplated by the Transactions;
- diversion of management time on issues related to the integration of the Transactions;
- changes in Legacy Charter, Legacy TWC or Legacy Bright House operations' businesses, future cash requirements, capital requirements, results of operations, revenues, financial condition and/or cash flows;
- disruption in our business relationships as a result of the Transactions;
- the increase in indebtedness as a result of the Transactions, which will increase interest expense and may decrease our operating flexibility;
- operating costs and business disruption that may be greater than expected;
- the ability to retain and hire key personnel and maintain relationships with providers or other business partners; and
- costs, disruptions and possible limitations on operating flexibility related to, and our ability to comply with, regulatory conditions applicable to us as a result of the Transactions.

Risks Related to Our Business

- our ability to sustain and grow revenues and cash flow from operations by offering video, Internet, voice, advertising and other services to residential and commercial customers, to adequately meet the customer experience demands in our markets and to maintain and grow our customer base, particularly in the face of increasingly aggressive competition, the need for innovation and the related capital expenditures;
- the impact of competition from other market participants, including but not limited to incumbent telephone companies, direct broadcast satellite operators, wireless broadband and telephone providers, digital subscriber line ("DSL") providers, fiber to the home providers, video provided over the Internet by (i) market participants that have not historically competed in the multichannel video business, (ii) traditional multichannel video distributors, and (iii) content providers that have historically licensed cable networks to multichannel video distributors, and providers of advertising over the Internet;
- general business conditions, economic uncertainty or downturn, unemployment levels and the level of activity in the housing sector;
- our ability to obtain programming at reasonable prices or to raise prices to offset, in whole or in part, the effects of higher programming costs (including retransmission consents);
- our ability to develop and deploy new products and technologies including our cloud-based user interface, Spectrum Guide®, and downloadable security for set-top boxes, and any other cloud-based consumer services and service platforms;
- the effects of governmental regulation on our business or potential business combination transactions;
- any events that disrupt our networks, information systems or properties and impair our operating activities or our reputation;
- the availability and access, in general, of funds to meet our debt obligations prior to or when they become due and to fund our operations and necessary capital expenditures, either through (i) cash on hand, (ii) free cash flow, or (iii) access to the capital or credit markets; and

- our ability to comply with all covenants in our indentures and credit facilities, any violation of which, if not cured in a timely manner, could trigger a default of our other obligations under cross-default provisions.

All forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by this cautionary statement. We are under no duty or obligation to update any of the forward-looking statements after the date of this quarterly report.

EXHIBIT A

PART I. FINANCIAL INFORMATION

Item 1. ***Financial Statements.***

CHARTER COMMUNICATIONS, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(dollars in millions, except share data)

	September 30, 2016 (unaudited)	December 31, 2015
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	$ 1,165	$ 5
Accounts receivable, less allowance for doubtful accounts of $134 and $21, respectively	1,242	279
Prepaid expenses and other current assets	374	61
Total current assets	2,781	345
RESTRICTED CASH AND CASH EQUIVALENTS	—	22,264
INVESTMENT IN CABLE PROPERTIES:		
Property, plant and equipment, net of accumulated depreciation of $9,499 and $6,518, respectively	32,881	8,345
Franchises	66,245	6,006
Customer relationships, net	15,439	856
Goodwill	30,165	1,168
Total investment in cable properties, net	144,730	16,375
OTHER NONCURRENT ASSETS	1,386	332
Total assets	$ 148,897	$ 39,316
LIABILITIES AND SHAREHOLDERS' EQUITY (DEFICIT)		
CURRENT LIABILITIES:		
Accounts payable and accrued liabilities	$ 6,597	$ 1,972
Current portion of long-term debt	2,050	—
Total current liabilities	8,647	1,972
LONG-TERM DEBT	59,946	35,723
DEFERRED INCOME TAXES	26,260	1,590
OTHER LONG-TERM LIABILITIES	2,969	77
SHAREHOLDERS' EQUITY (DEFICIT):		
Class A common stock; $.001 par value; 900 million shares authorized; 272,490,230 and 112,438,828 shares issued, respectively	—	—
Class B common stock; $.001 par value; 25 million shares authorized; 1 and no shares issued and outstanding, respectively	—	—
Preferred stock; $.001 par value; 250 million shares authorized; no shares issued and outstanding	—	—
Additional paid-in capital	39,726	2,028
Retained earnings (accumulated deficit)	1,007	(2,061)
Treasury stock at cost; 1,824,839 and no shares, respectively	(448)	—
Accumulated other comprehensive loss	(8)	(13)
Total Charter shareholders' equity (deficit)	40,277	(46)
Noncontrolling interests	10,798	—
Total shareholders' equity (deficit)	51,075	(46)
Total liabilities and shareholders' equity (deficit)	$ 148,897	$ 39,316

The accompanying notes are an integral part of these consolidated financial statements.

EXHIBIT A

CHARTER COMMUNICATIONS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(dollars in millions, except per share and share data)
Unaudited

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	**2015**	**2016**	**2015**
REVENUES	$ 10,037	$ 2,450	$ 18,728	$ 7,242
COSTS AND EXPENSES:				
Operating costs and expenses (exclusive of items shown separately below)	6,482	1,620	12,157	4,802
Depreciation and amortization	2,437	538	4,412	1,580
Other operating expenses, net	194	19	243	69
	9,113	2,177	16,812	6,451
Income from operations	924	273	1,916	791
OTHER EXPENSES:				
Interest expense, net	(724)	(353)	(1,771)	(871)
Loss on extinguishment of debt	—	—	(110)	(128)
Gain (loss) on financial instruments, net	71	(5)	16	(10)
Other expense, net	(5)	(3)	(10)	(3)
	(658)	(361)	(1,875)	(1,012)
Income (loss) before income taxes	266	(88)	41	(221)
Income tax benefit (expense)	(16)	142	3,135	72
Consolidated net income (loss)	250	54	3,176	(149)
Less: Net income attributable to noncontrolling interests	(61)	—	(108)	—
Net income (loss) attributable to Charter shareholders	$ 189	$ 54	$ 3,068	$ (149)
EARNINGS (LOSS) PER COMMON SHARE ATTRIBUTABLE TO CHARTER SHAREHOLDERS:				
Basic	$ 0.70	$ 0.54	$ 16.52	$ (1.48)
Diluted	$ 0.69	$ 0.53	$ 15.23	$ (1.48)
Weighted average common shares outstanding, basic	271,263,259	101,205,400	185,706,106	101,080,587
Weighted average common shares outstanding, diluted	275,373,202	102,481,924	208,460,148	101,080,587

The accompanying notes are an integral part of these consolidated financial statements.

CHARTER COMMUNICATIONS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(dollars in millions)
Unaudited

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
Consolidated net income (loss)	$ 250	$ 54	$ 3,176	$ (149)
Net impact of interest rate derivative instruments, net of tax	2	2	6	7
Foreign currency translation adjustment	(1)	—	(1)	—
Consolidated comprehensive income (loss)	251	56	3,181	(142)
Less: Net income attributable to noncontrolling interests	(61)	—	(108)	—
Comprehensive income (loss) attributable to Charter shareholders	$ 190	$ 56	$ 3,073	$ (142)

The accompanying notes are an integral part of these consolidated financial statements.

EXHIBIT A

CHARTER COMMUNICATIONS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY (DEFICIT)
(dollars in millions)
Unaudited

	Class A Common Stock	Class B Common Stock	Additional Paid-in Capital	Retained Earnings (Accumulated Deficit)	Treasury Stock	Accumulated Other Comprehensive Loss	Total Charter Shareholders' Equity (Deficit)	Non-controlling Interests	Total Shareholders' Equity (Deficit)
BALANCE, December 31, 2014	$ —	$ —	$ 1,930	$ (1,762)	$ —	$ (22)	$ 146	$ —	$ 146
Net loss	—	—	—	(149)	—	—	(149)	—	(149)
Changes in accumulated other comprehensive loss, net	—	—	—	—	—	7	7	—	7
Stock compensation expense, net	—	—	58	—	—	—	58	—	58
Exercise of stock options	—	—	22	—	—	—	22	—	22
Purchase of treasury stock	—	—	—	—	(24)	—	(24)	—	(24)
BALANCE, September 30, 2015	$ —	$ —	$ 2,010	$ (1,911)	$ (24)	$ (15)	$ 60	$ —	$ 60
BALANCE, December 31, 2015	$ —	$ —	$ 2,028	$ (2,061)	$ —	$ (13)	$ (46)	$ —	$ (46)
Net income	—	—	—	3,068	—	—	3,068	108	3,176
Changes in accumulated other comprehensive loss, net	—	—	—	—	—	5	5	—	5
Stock compensation expense, net	—	—	168	—	—	—	168	—	168
Accelerated vesting of equity awards	—	—	202	—	—	—	202	—	202
Settlement of restricted stock units	—	—	(59)	—	—	—	(59)	—	(59)
Exercise of stock options	—	—	71	—	—	—	71	—	71
Purchase of treasury stock	—	—	—	—	(448)	—	(448)	—	(448)
Issuance of shares to Liberty Broadband for cash	—	—	5,000	—	—	—	5,000	—	5,000
Converted TWC Awards in the TWC Transaction	—	—	514	—	—	—	514	—	514
Issuance of shares in TWC Transaction	—	—	32,164	—	—	—	32,164	—	32,164
Issuance of subsidiary equity in Bright House Transaction	—	—	—	—	—	—	—	10,134	10,134
Partnership formation and change in ownership, net of tax	—	—	(362)	—	—	—	(362)	587	225
Payment of preferred dividend to noncontrolling interest	—	—	—	—	—	—	—	(55)	(55)
Noncontrolling interests assumed in acquisitions	—	—	—	—	—	—	—	24	24
BALANCE, September 30, 2016	$ —	$ —	$ 39,726	$ 1,007	$ (448)	$ (8)	$ 40,277	$ 10,798	$ 51,075

The accompanying notes are an integral part of these consolidated financial statements.

EXHIBIT A

CHARTER COMMUNICATIONS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(dollars in millions)
Unaudited

	Nine Months Ended September 30,	
	2016	**2015**
CASH FLOWS FROM OPERATING ACTIVITIES:		
Consolidated net income (loss)	$ 3,176	$ (149)
Adjustments to reconcile consolidated net income (loss) to net cash flows from operating activities:		
Depreciation and amortization	4,412	1,580
Stock compensation expense	168	58
Accelerated vesting of equity awards	202	—
Noncash interest (income) expense, net	(148)	21
Other pension benefits	(533)	—
Loss on extinguishment of debt	110	128
(Gain) loss on financial instruments, net	(16)	10
Deferred income taxes	(3,170)	(76)
Other, net	—	8
Changes in operating assets and liabilities, net of effects from acquisitions:		
Accounts receivable	(2)	(7)
Prepaid expenses and other assets	85	(19)
Accounts payable, accrued liabilities and other	531	194
Net cash flows from operating activities	4,815	1,748
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of property, plant and equipment	(3,437)	(1,292)
Change in accrued expenses related to capital expenditures	86	11
Purchases of cable systems, net of cash acquired	(28,810)	—
Change in restricted cash and cash equivalents	22,264	(12,515)
Other, net	(8)	(69)
Net cash flows from investing activities	(9,905)	(13,865)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Borrowings of long-term debt	5,997	23,062
Repayments of long-term debt	(4,120)	(10,911)
Payments for debt issuance costs	(283)	(35)
Issuance of equity	5,000	—
Purchase of treasury stock	(448)	(24)
Proceeds from exercise of stock options	71	22
Payment of preferred dividend to noncontrolling interest	(55)	—
Proceeds from termination of interest rate derivatives	88	—
Net cash flows from financing activities	6,250	12,114
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	1,160	(3)
CASH AND CASH EQUIVALENTS, beginning of period	5	3
CASH AND CASH EQUIVALENTS, end of period	$ 1,165	$ —
CASH PAID FOR INTEREST	$ 1,964	$ 747

The accompanying notes are an integral part of these consolidated financial statements.

1. Organization and Basis of Presentation

Organization

Charter Communications, Inc. (together with its controlled subsidiaries, "Charter," or the "Company") is the second largest cable operator in the United States and a leading broadband communications company providing video, Internet and voice services to residential and business customers. The Company also sells video and online advertising inventory to local, regional and national advertising customers, and networking and enterprise-class, cloud-enabled hosting, managed applications and transport services to business customers and owns and operates regional sports networks and local sports, news and lifestyle channels. The Company's residential services also include security and home management services.

Charter is a holding company whose principal asset is a controlling equity interest in Charter Communications Holdings, LLC ("Charter Holdings"), an indirect owner of Charter Communications Operating, LLC ("Charter Operating") under which substantially all of the operations reside. All significant intercompany accounts and transactions among consolidated entities have been eliminated.

The Company's operations are managed and reported to its Chief Executive Officer ("CEO"), the Company's chief operating decision maker, on a consolidated basis. The CEO assesses performance and allocates resources based on the consolidated results of operations. Under this organizational and reporting structure, the Company has one reportable segment, cable services.

Basis of Presentation

The accompanying consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("GAAP") and the rules and regulations of the Securities and Exchange Commission (the "SEC"). Accordingly, certain information and footnote disclosures typically included in Charter's Annual Report on Form 10-K have been condensed or omitted for this quarterly report. The accompanying consolidated financial statements are unaudited and are subject to review by regulatory authorities. However, in the opinion of management, such financial statements include all adjustments, which consist of only normal recurring adjustments, necessary for a fair presentation of the results for the periods presented. Interim results are not necessarily indicative of results for a full year.

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Areas involving significant judgments and estimates include capitalization of labor and overhead costs; depreciation and amortization costs; purchase accounting valuations of assets and liabilities including, but not limited to, property, plant and equipment, intangibles and goodwill; pension benefits; income taxes; contingencies and programming expense. Actual results could differ from those estimates.

2. Mergers and Acquisitions

TWC Transaction

On May 18, 2016, the transactions contemplated by the Agreement and Plan of Mergers dated as of May 23, 2015 (the "Merger Agreement"), by and among Time Warner Cable Inc. ("Legacy TWC"), Charter Communications, Inc. prior to the closing of the Merger Agreement ("Legacy Charter"), CCH I, LLC, previously a wholly owned subsidiary of Legacy Charter ("New Charter") and certain other subsidiaries of New Charter were completed (the "TWC Transaction," and together with the Bright House Transaction described below, the "Transactions"). As a result of the TWC Transaction, New Charter became the new public parent company that holds the operations of the combined companies and was renamed Charter Communications, Inc.

Pursuant to the terms of the Merger Agreement, upon consummation of the TWC Transaction, each outstanding share of Legacy TWC common stock (other than Legacy TWC common stock held by Liberty Broadband Corporation ("Liberty Broadband") and Liberty Interactive Corporation ("Liberty Interactive" and, collectively, the "Liberty Parties")), was converted into the right to receive, at the option of each such holder of Legacy TWC common stock, either (a) $100 in cash and Charter Class A common stock equivalent to 0.5409 shares of Legacy Charter Class A common stock (the "Option A Consideration") or (b) $115 in cash and Charter Class A common stock equivalent to 0.4562 shares of Legacy Charter Class A common stock (the "Option B

Consideration"). The actual number of shares of Charter Class A common stock that Legacy TWC stockholders received, excluding the Liberty Parties, was calculated by multiplying the exchange ratios of 0.5409 or 0.4562 specified above by 0.9042 (the "Parent Merger Exchange Ratio"), which was also the exchange ratio that was used to determine the number of shares of Charter Class A common stock that Legacy Charter stockholders received per share of Legacy Charter Class A common stock. Such exchange ratio did not impact the aggregate value represented by the shares of Charter Class A common stock issued in the TWC Transaction; however, it did impact the actual number of shares issued in the TWC Transaction.

Out of approximately 277 million shares of TWC common stock outstanding at the closing of the TWC Transaction, excluding TWC common stock held by the Liberty Parties, approximately 274 million shares were converted into the right to receive the Option A Consideration and approximately 3 million shares were converted into the right to receive the Option B Consideration. The Liberty Parties received approximately one share of Charter Class A common stock for each share of Legacy TWC common stock they owned (equivalent to 1.106 shares of Legacy Charter Class A common stock multiplied by the Parent Merger Exchange Ratio).

As of the date of completion of the Transactions, the total value of the TWC Transaction was approximately $85 billion, including cash, equity and Legacy TWC assumed debt. The purchase price also included an estimated pre-combination vesting period fair value of $514 million for Legacy TWC equity awards converted into Charter awards upon closing of the TWC Transaction ("Converted TWC Awards") and $69 million of cash paid to former Legacy TWC employees and non-employee directors who held equity awards, whether vested or not vested.

Bright House Transaction

Also, on May 18, 2016, Legacy Charter and Advance/Newhouse Partnership ("A/N"), the former parent of Bright House Networks, LLC ("Bright House"), completed their previously announced transaction, pursuant to a definitive Contribution Agreement (the "Contribution Agreement"), under which Charter acquired Bright House (the "Bright House Transaction"). Pursuant to the Bright House Transaction, Charter became the owner of the membership interests in Bright House and the other assets primarily related to Bright House (other than certain excluded assets and liabilities and non-operating cash). As of the date of acquisition, the purchase price totaled approximately $12.2 billion consisting of (a) $2.0 billion in cash, (b) 25 million convertible preferred units of Charter Holdings with a face amount of $2.5 billion that pay a 6% annual preferential dividend, (c) approximately 31.0 million common units of Charter Holdings that are exchangeable into Charter Class A common stock on a one-for-one basis and (d) one share of Charter Class B common stock. See Note 9 for conversion features of the Charter Holdings preferred units and common units and Note 8 for the terms of the Charter Class B common stock.

Liberty Transaction

In connection with the TWC Transaction, Legacy Charter and Liberty Broadband completed their previously announced transactions pursuant to their investment agreement, in which Liberty Broadband purchased for cash approximately 22.0 million shares of Charter Class A common stock valued at $4.3 billion at the closing of the TWC Transaction to partially finance the cash portion of the TWC Transaction consideration, and in connection with the Bright House Transaction, Liberty Broadband purchased approximately 3.7 million shares of Charter Class A common stock valued at $700 million at the closing of the Bright House Transaction (the "Liberty Transaction").

Financing for the Transactions

Charter partially financed the cash portion of the purchase price of the Transactions with additional indebtedness and cash on hand. In 2015, Legacy Charter issued $15.5 billion aggregate principal amount of CCO Safari II, LLC ("CCO Safari II") senior secured notes, $3.8 billion aggregate principal amount of CCO Safari III, LLC ("CCO Safari III") senior secured bank loans and $2.5 billion aggregate principal amount of CCOH Safari, LLC ("CCOH Safari") senior unsecured notes. The net proceeds were initially deposited into escrow accounts. Upon closing of the TWC Transaction, the proceeds were released from escrow and the CCOH Safari notes became obligations of CCO Holdings, LLC ("CCO Holdings"), an indirect wholly-owned subsidiary of Charter Holdings, and CCO Holdings Capital Corp. ("CCO Holdings Capital"), and the CCO Safari II notes and CCO Safari III credit facilities became obligations of Charter Operating and Charter Communications Operating Capital Corp. CCOH Safari merged into CCO Holdings and CCO Safari II and CCO Safari III merged into Charter Operating. In connection with the closing of the Bright House Transaction, Charter Operating closed on a $2.6 billion aggregate principal amount term loan A facility ("Term Loan A"). See Note 7.

Acquisition Accounting

The Transactions enable Charter to apply its operating strategy to a larger set of assets, accelerate product development and innovation through greater scale as well as more effectively compete in medium and large commercial markets. The operating results of Legacy TWC and Legacy Bright House have been included in the Company's consolidated statements of operations for the period from the date of the Transactions through September 30, 2016. For the three and nine months ended September 30, 2016, revenues included in the Company's consolidated statements of operations were $6.4 billion and $9.5 billion, respectively, and consolidated net income was $83 million and $319 million, respectively, for Legacy TWC. For the three and nine months ended September 30, 2016, revenues included in the Company's consolidated statements of operations were $1.0 billion and $1.5 billion, respectively, and consolidated net income was $84 million and $125 million, respectively, for Legacy Bright House. Consolidated net income includes non-operating expenses such as interest expense and income taxes based on what is included in the respective legal entities and does not include allocations of additional corporate level non-operating expenses.

Charter applied acquisition accounting to the Transactions. The total purchase price was allocated to the identifiable tangible and intangible assets acquired and the liabilities assumed based on their estimated fair values. The fair values were primarily based on third-party valuations using assumptions developed by management and other information compiled by management including, but not limited to, future expected cash flows. The excess of the purchase price over those fair values was recorded as goodwill. Goodwill recognized in the Transactions is representative of resources that do not meet the definition of an identifiable intangible asset and include buy-side synergies, economies of scale of the combined operations, increased market share, assembled workforces and improved credit rating.

The fair values of the assets acquired and liabilities assumed were preliminarily determined using the income, cost and market approaches. The fair values were primarily based on significant inputs that are not observable in the market and thus represent a Level 3 measurement, other than long-term debt assumed in the TWC Transaction which represents a Level 1 measurement. See Note 11.

Property, plant and equipment was valued utilizing the cost approach. The cost approach considers the amount required to replace an asset by constructing or purchasing a new asset with similar utility, then adjusts the value in consideration of all forms of depreciation as of the appraisal date as described below:

- Physical depreciation - the loss in value or usefulness attributable solely to use of the asset and physical causes such as wear and tear and exposure to the elements.
- Functional obsolescence - the loss in value due to factors inherent in the asset itself and due to changes in technology, design or process resulting in inadequacy, overcapacity, lack of functional utility or excess operating costs.
- Economic obsolescence - the loss in value due to unfavorable external conditions such as economics of the industry or geographic area, or change in ordinances.

The cost approach relies on assumptions regarding current material and labor costs required to rebuild and repurchase significant components of property, plant and equipment along with assumptions regarding the age and estimated useful lives of property, plant and equipment.

Franchise rights and customer relationships were valued using an income approach model based on the present value of the estimated discrete future cash flows attributable to each of the intangible assets identified. See Note 6 to the consolidated financial statements in the Company's Annual Report on Form 10-K for the year ended December 31, 2015 for more information on the income approach model. The weighted average life of customer relationships acquired in the TWC Transaction and Bright House Transaction was 11 years and 10 years, respectively.

The fair value of equity investments was based on either applying implied multiples to estimated cash flows or utilizing a discounted cash flow model. The implied multiples were estimated based on precedent transactions and comparable companies. The discounted cash flow model required estimating the present value of future cash flows of the investee.

Legacy TWC long-term debt assumed was adjusted to fair value based on quoted market prices. At the acquisition date, the quoted market values of all but two of Legacy TWC's bonds were higher than the principal amount of the related debt instrument, which resulted in the recognition of a net debt premium of approximately $2.4 billion. The quoted market value of a debt instrument is

higher than the principal amount of the debt when the market interest rates are lower than the stated interest rate of the debt. This debt premium is amortized as a reduction to interest expense over the remaining life of the applicable debt.

Generally, no fair value adjustments were reflected in current assets and current liabilities as carrying value is estimated to approximate fair value because of the short-term nature of the items. However, fair value adjustments were reflected in other noncurrent assets and other long-term liabilities relating to contract-based assets and liabilities, capital lease obligations, deferred liabilities and pension liabilities. Out-of-market contract-based assets and liabilities relating to non-cancelable executory contracts and operating leases were recognized based on discounted cash flow models to the extent the terms of the non-cancelable contracts are favorable or unfavorable compared with the relative market terms of the same or similar contract at the acquisition date. The out-of-market element will be amortized as if the contract were consummated at market terms on the acquisition date. Capital lease obligations were measured at fair value based on the present value of amounts to be paid under the lease agreement using a market participant discount rate. Deferred liabilities were not recorded in acquisition accounting to the extent there was no associated payment obligation or substantive performance obligation. The pension liabilities assumed in the TWC Transaction are measured at fair value based on an actuarially determined projected benefit obligation, less the fair value of pension investments, as of the acquisition date. See Note 19 for fair value assumptions considered in acquisition accounting for the pension liabilities.

An adjustment was recorded for the deferred tax impact of acquisition accounting adjustments primarily related to property, plant and equipment, franchises, customer relationships and assumed Legacy TWC long-term debt. The incremental deferred tax liabilities were calculated primarily based on the tax effect of the step-up in book basis of net assets of Legacy TWC excluding the amount attributable to nondeductible goodwill.

The Charter Class A common stock issued to Legacy TWC stockholders and Charter Holdings common units issued to A/N were valued based on the opening share price of Charter Class A common stock on the acquisition date. The convertible preferred units of Charter Holdings issued to A/N were valued at approximately $3.2 billion based on a binomial lattice model for convertible bonds that models the future changes in the common equity value of Charter. The valuation relies on management's assumptions including risk-free interest rate, volatility and discount yield. The pre-combination vesting period fair value of the Converted TWC Awards was based on the portion of the requisite service period completed at the acquisition date by Legacy TWC employee award holders applied to the total fair value of the Converted TWC Awards. See Note 18 for fair value assumptions considered in acquisition accounting for the Converted TWC Awards.

The allocation of the purchase price to tangible and intangible assets and certain liabilities is preliminary and is subject to change based on finalization and review of such valuations. During the measurement period, the Company will continue to obtain information to assist in finalizing the fair value of net assets acquired, which may differ materially from the preliminary estimates. The Company will apply any measurement period adjustments, including any related impacts to net income (loss), in the reporting period in which the adjustments are determined. The tables below present the calculation of the purchase price and the preliminary allocation of the purchase price to the assets acquired and liabilities assumed in the Transactions.

TWC Purchase Price

Shares of Charter Class A common stock issued (including the Liberty Parties) (in millions)		143.0
Charter Class A common stock closing price per share	$	224.91
Fair value of Charter Class A common stock issued	$	32,164
Cash paid to Legacy TWC stockholders (excluding the Liberty Parties)	$	27,770
Pre-combination vesting period fair value of Converted TWC Awards		514
Cash paid for Legacy TWC non-employee equity awards		69
Total purchase price	$	60,517

TWC Preliminary Allocation of Purchase Price

Cash and cash equivalents	$	1,058
Current assets		1,309
Property, plant and equipment		21,431
Franchises		53,395
Customer relationships		13,700
Goodwill		28,459
Other noncurrent assets		1,061
Accounts payable and accrued liabilities		(3,752)
Debt		(24,900)
Deferred income taxes		(28,071)
Other long-term liabilities		(3,169)
Noncontrolling interests		(4)
	$	60,517

During the three months ended September 30, 2016, the Company made measurement period adjustments to the fair value of certain assets acquired and liabilities assumed in the TWC Transaction, including a decrease of $145 million to property, plant and equipment; an increase of $25 million to accrued liabilities; a decrease of $81 million to deferred income taxes; and an increase in other long-term liabilities of $2 million resulting in a net increase of $91 million to goodwill. The measurement period adjustment to property, plant and equipment also resulted in an increase of $12 million in depreciation expense relating to the prior quarter that was recorded in the third quarter of 2016. The Company expects to record additional measurement period adjustments in future periods.

Bright House Purchase Price

Charter Holdings common units issued to A/N (in millions)		31.0
Charter Class A common stock closing price per share	$	224.91
Fair value of Charter Holdings common units issued to A/N	$	6,971
Fair value of Charter Holdings convertible preferred units issued to A/N		3,163
Cash paid to A/N		2,022
Total purchase price	$	12,156

Bright House Preliminary Allocation of Purchase Price

Current assets	$	132
Property, plant and equipment		2,884
Franchises		6,844
Customer relationships		2,040
Goodwill		534
Other noncurrent assets		86
Accounts payable and accrued liabilities		(330)
Other long-term liabilities		(12)
Noncontrolling interests		(22)
	$	12,156

During the three months ended September 30, 2016, the Company made measurement period adjustments to the fair value of certain assets acquired and liabilities assumed in the Bright House Transaction, including a decrease of $382 million to property, plant and equipment and a corresponding increase of $382 million to goodwill. The measurement period adjustment to property, plant and equipment had an inconsequential impact on depreciation expense recorded in the prior quarter. The Company expects to record additional measurement period adjustments in future periods.

Selected Pro Forma Financial Information

The following unaudited pro forma financial information of the Company is based on the historical consolidated financial statements of Legacy Charter, Legacy TWC and Legacy Bright House and is intended to provide information about how the Transactions and related financing may have affected the Company's historical consolidated financial statements if they had closed as of January 1, 2015. The pro forma financial information below is based on available information and assumptions that the Company believes are reasonable. The pro forma financial information is for illustrative and informational purposes only and is not intended to represent or be indicative of what the Company's financial condition or results of operations would have been had the transactions described above occurred on the date indicated. The pro forma financial information also should not be considered representative of the Company's future financial condition or results of operations.

	Three Months Ended September 30,		Nine Months Ended September 30,			
	2015		2016		2015	
Revenues	$	9,342	$	29,748	$	27,813
Net income attributable to Charter shareholders	$	2	$	616	$	29
Earnings per common share attributable to Charter shareholders:						
Basic	$	0.01	$	2.28	$	0.11
Diluted	$	0.01	$	2.25	$	0.11

3. Property, Plant and Equipment

Property, plant and equipment consists of the following as of September 30, 2016 and December 31, 2015:

	September 30, 2016	December 31, 2015
Cable distribution systems	$ 22,942	$ 8,158
Customer premise equipment and installations	11,916	4,632
Vehicles and equipment	1,183	384
Buildings and improvements	3,338	570
Furniture, fixtures and equipment	3,001	1,119
	42,380	14,863
Less: accumulated depreciation	(9,499)	(6,518)
	$ 32,881	$ 8,345

The Company periodically evaluates the estimated useful lives used to depreciate its assets and the estimated amount of assets that will be abandoned or have minimal use in the future. A significant change in assumptions about the extent or timing of future asset retirements, or in the Company's use of new technology and upgrade programs, could materially affect future depreciation expense.

Depreciation expense for the three and nine months ended September 30, 2016 was $1.7 billion and $3.2 billion, respectively, and was $471 million and $1.4 billion for the three and nine months ended September 30, 2015, respectively. Property, plant and equipment preliminarily increased by $24.3 billion as a result of the Transactions. See Note 2.

4. Franchises, Goodwill and Other Intangible Assets

Indefinite-lived and finite-lived intangible assets consist of the following as of September 30, 2016 and December 31, 2015:

	September 30, 2016			December 31, 2015		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Indefinite-lived intangible assets:						
Franchises	$ 66,245	$ —	$ 66,245	$ 6,006	$ —	$ 6,006
Goodwill	30,165	—	30,165	1,168	—	1,168
Trademarks	159	—	159	159	—	159
Other intangible assets	4	—	4	4	—	4
	$ 96,573	$ —	$ 96,573	$ 7,337	$ —	$ 7,337
Finite-lived intangible assets:						
Customer relationships	$ 18,356	$ (2,917)	$ 15,439	$ 2,616	$ (1,760)	$ 856
Other intangible assets	635	(120)	515	173	(82)	91
	$ 18,991	$ (3,037)	$ 15,954	$ 2,789	$ (1,842)	$ 947

Amortization expense related to customer relationships and other intangible assets for the three and nine months ended September 30, 2016 was $748 million and $1.2 billion, respectively, and was $67 million and $205 million for the three and nine months ended September 30, 2015, respectively. Franchises, goodwill and customer relationships preliminarily increased by $60.2 billion, $29.0 billion and $15.7 billion, respectively, as a result of the Transactions. See Note 2.

The Company expects amortization expense on its finite-lived intangible assets will be as follows:

Three months ended December 31, 2016	$ 741
2017	2,773
2018	2,488
2019	2,201
2020	1,906
Thereafter	5,845
	$ 15,954

Actual amortization expense in future periods will differ from these estimates as a result of new intangible asset acquisitions or divestitures, changes in useful lives, purchase accounting adjustments, impairments and other relevant factors.

5. Investments

In connection with the Transactions, the Company acquired approximately $508 million of Legacy TWC and Legacy Bright House equity-method and cost-method investments, which were adjusted to fair value as a result of applying acquisition accounting. The equity-method investments acquired and related ownership percentages as of September 30, 2016 include Sterling Entertainment Enterprises, LLC ("Sterling" - d/b/a SportsNet New York - 26.8% owned), MLB Network, LLC ("MLB Network" - 6.4% owned), iN Demand L.L.C. ("iN Demand" - 39.8% owned) and National Cable Communications LLC ("NCC" - 20.0% owned), among other less significant equity-method and cost-method investments acquired. Sterling and MLB Network are primarily engaged in the development of sports programming services. iN Demand provides programming on a video on demand, pay-per-view and subscription basis. NCC represents multi-video program distributors to advertisers.

On May 1, 2015, the Company acquired a 35% equity interest in ActiveVideo Networks ("AVN") for $55 million in cash, representing the initial investment, a capital call and associated transaction fees. AVN is the developer of CloudTV, a cloud-based software platform enabling service providers, content aggregators, and consumer electronic manufacturers to deploy new services by virtualizing consumer premise equipment functions in the cloud. AVN's software platform is one of the key technologies enabling the development and deployment of the Company's cloud-based user interface, Spectrum Guide®.

The Company applies the equity method of accounting to these and other less significant equity-method investments, all of which are recorded in other noncurrent assets in the consolidated balance sheets as of September 30, 2016 and December 31, 2015. For the three and nine months ended September 30, 2016, net losses from equity-method investments were $5 million and $10 million, respectively, and were $3 million for both the three and nine months ended September 31, 2015 which were recorded in other expense, net in the consolidated statements of operations.

6. Accounts Payable and Accrued Liabilities

Accounts payable and accrued liabilities consist of the following as of September 30, 2016 and December 31, 2015:

	September 30, 2016	December 31, 2015
Accounts payable – trade	$ 478	$ 134
Accrued capital expenditures	611	296
Deferred revenue	346	96
Accrued liabilities:		
Interest	841	445
Programming costs	1,768	451
Franchise-related fees	242	65
Compensation	960	191
Other	1,351	294
	$ 6,597	$ 1,972

CHARTER COMMUNICATIONS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)
(dollars in millions, except per share amounts and where indicated)

7. Long-Term Debt

Long-term debt consists of the following as of September 30, 2016 and December 31, 2015:

	September 30, 2016		December 31, 2015	
	Principal Amount	Accreted Value	Principal Amount	Accreted Value
CCOH Safari, LLC				
5.750% senior notes due February 15, 2026	$ —	$ —	$ 2,500	$ 2,499
CCO Safari II, LLC				
3.579% senior notes due July 23, 2020	—	—	2,000	1,999
4.464% senior notes due July 23, 2022	—	—	3,000	2,998
4.908% senior notes due July 23, 2025	—	—	4,500	4,497
6.384% senior notes due October 23, 2035	—	—	2,000	1,999
6.484% senior notes due October 23, 2045	—	—	3,500	3,498
6.834% senior notes due October 23, 2055	—	—	500	500
CCO Safari III, LLC				
Credit facilities	—	—	3,800	3,788
CCO Holdings, LLC:				
7.000% senior notes due January 15, 2019	—	—	600	594
7.375% senior notes due June 1, 2020	—	—	750	744
5.250% senior notes due March 15, 2021	500	496	500	496
6.500% senior notes due April 30, 2021	—	—	1,500	1,487
6.625% senior notes due January 31, 2022	750	741	750	740
5.250% senior notes due September 30, 2022	1,250	1,231	1,250	1,229
5.125% senior notes due February 15, 2023	1,000	991	1,000	990
5.125% senior notes due May 1, 2023	1,150	1,141	1,150	1,140
5.750% senior notes due September 1, 2023	500	496	500	495
5.750% senior notes due January 15, 2024	1,000	991	1,000	990
5.875% senior notes due April 1, 2024	1,700	1,684	—	—
5.375% senior notes due May 1, 2025	750	744	750	744
5.750% senior notes due February 15, 2026	2,500	2,459	—	—
5.500% senior notes due May 1, 2026	1,500	1,487	—	—
5.875% senior notes due May 1, 2027	800	794	800	794
Charter Communications Operating, LLC:				
3.579% senior notes due July 23, 2020	2,000	1,982	—	—
4.464% senior notes due July 23, 2022	3,000	2,972	—	—
4.908% senior notes due July 23, 2025	4,500	4,457	—	—
6.384% senior notes due October 23, 2035	2,000	1,980	—	—
6.484% senior notes due October 23, 2045	3,500	3,466	—	—
6.834% senior notes due October 23, 2055	500	495	—	—
Credit facilities	8,965	8,863	3,552	3,502
Time Warner Cable, LLC:				
5.850% senior notes due May 1, 2017	2,000	2,050	—	—
6.750% senior notes due July 1, 2018	2,000	2,157	—	—
8.750% senior notes due February 14, 2019	1,250	1,430	—	—
8.250% senior notes due April 1, 2019	2,000	2,292	—	—

5.000% senior notes due February 1, 2020	1,500	1,624	—	—
4.125% senior notes due February 15, 2021	700	742	—	—
4.000% senior notes due September 1, 2021	1,000	1,059	—	—
5.750% sterling senior notes due June 2, 2031 [a]	810	879	—	—
6.550% senior debentures due May 1, 2037	1,500	1,693	—	—
7.300% senior debentures due July 1, 2038	1,500	1,797	—	—
6.750% senior debentures due June 15, 2039	1,500	1,731	—	—
5.875% senior debentures due November 15, 2040	1,200	1,259	—	—
5.500% senior debentures due September 1, 2041	1,250	1,258	—	—
5.250% sterling senior notes due July 15, 2042 [b]	843	811	—	—
4.500% senior debentures due September 15, 2042	1,250	1,135	—	—
Time Warner Cable Enterprises LLC:				
8.375% senior debentures due March 15, 2023	1,000	1,282	—	—
8.375% senior debentures due July 15, 2033	1,000	1,327	—	—
Total debt	60,168	61,996	35,902	35,723
Less current portion:				
5.850% senior notes due May 1, 2017	2,000	2,050	—	—
Long-term debt	$ 58,168	$ 59,946	$ 35,902	$ 35,723

[a] Principal amount includes £625 million valued at $810 million as of September 30, 2016 using the exchange rate at that date.
[b] Principal amount includes £650 million valued at $843 million as of September 30, 2016 using the exchange rate at that date.

The accreted values presented in the table above represent the principal amount of the debt less the original issue discount at the time of sale, deferred financing costs, and, (i) in regards to the Legacy TWC debt assumed, a fair value premium adjustment as a result of applying acquisition accounting plus the accretion of those amounts to the balance sheet date and (ii) in regards to the fixed-rate British pound sterling denominated notes (the “Sterling Notes”), a remeasurement of the principal amount of the debt and any premium or discount into US dollars as of the balance sheet date. See Note 10. However, the amount that is currently payable if the debt becomes immediately due is equal to the principal amount of the debt. The Company has availability under the Charter Operating credit facilities of approximately $2.8 billion as of September 30, 2016.

CCO Holdings

In February 2016, CCO Holdings and CCO Holdings Capital jointly issued $1.7 billion aggregate principal amount of 5.875% senior notes due 2024 (the “2024 Notes”) and, in April 2016, they issued $1.5 billion aggregate principal amount of 5.500% senior notes due 2026 (the “2026 Notes”) at a price of 100.075% of the aggregate principal amount. The net proceeds from both issuances were used to repurchase all of CCO Holdings’ 7.000% senior notes due 2019, 7.375% senior notes due 2020 and 6.500% senior notes due 2021 and to pay related fees and expenses and for general corporate purposes. These debt repurchases resulted in a loss on extinguishment of debt of $110 million for the nine months ended September 30, 2016.

The 2024 Notes and 2026 Notes are senior debt obligations of CCO Holdings and CCO Holdings Capital and rank equally with all other current and future unsecured, unsubordinated obligations of CCO Holdings and CCO Holdings Capital. They are structurally subordinated to all obligations of subsidiaries of CCO Holdings.

CCO Holdings may redeem some or all of the 2024 Notes and 2026 Notes at any time with a make-whole premium. Beginning in 2019 for the 2024 notes and 2021 for the 2026 notes, the optional redemption price declines to 100% of the respective series’ principal amount, plus accrued and unpaid interest, if any.

In addition, at any time prior to April 1, 2019 in regards to the 2024 Notes and May 1, 2019 in regards to the 2026 Notes, CCO Holdings may redeem up to 40% of the aggregate principal amount of the 2024 Notes and 2026 Notes at a premium plus accrued and unpaid interest to the redemption date, with the net cash proceeds of one or more equity offerings (as defined in the indenture);

provided that certain conditions are met. In the event of specified change of control events, CCO Holdings must offer to purchase the outstanding CCO Holdings notes from the holders at a purchase price equal to 101% of the total principal amount of the notes, plus any accrued and unpaid interest.

In April 2015, CCO Holdings and CCO Holdings Capital closed on transactions in which they issued $1.15 billion aggregate principal amount of 5.125% senior unsecured notes due 2023 (the "2023 Notes"), $750 million aggregate principal amount of 5.375% senior unsecured notes due 2025 (the "2025 Notes") and $800 million aggregate principal amount of 5.875% senior unsecured notes due 2027 (the "2027 Notes" and collectively, the "Notes"). The net proceeds from the issuance of the 2023 Notes and 2025 Notes were used to finance tender offers and a subsequent call in which $1.0 billion aggregate principal amount of CCO Holdings' outstanding 7.250% senior notes due 2017 and $700 million aggregate principal amount of CCO Holdings' outstanding 8.125% senior notes due 2020 were repurchased, as well as for general corporate purposes. The net proceeds from the issuance of the 2027 Notes were used to call $800 million of the $1.4 billion aggregate principal amount of CCO Holdings' outstanding 7.000% senior notes due 2019. These debt repurchases resulted in a loss on extinguishment of debt of $123 million for the nine months ended September 30, 2015.

The Company also recorded a loss on extinguishment of debt of approximately $5 million for the nine months ended September 30, 2015 as a result of the repayment of debt upon termination of the proposed transactions with Comcast Corporation ("Comcast").

Charter Operating

In connection with the closing of the TWC Transaction, Charter Operating replaced its existing revolving credit facility with a new $3.0 billion senior secured revolving credit facility under Charter Operating's Amended and Restated Credit Agreement dated May 18, 2016 (the "Credit Agreement"). As of September 30, 2016, $220 million of the revolving credit facility was utilized to collateralize $325 million of letters of credit issued on the Company's behalf. In connection with the closing of the Bright House Transaction, Charter Operating closed on a $2.6 billion aggregate principal amount Term Loan A pursuant to the terms of the Credit Agreement of which $2.0 billion was used to fund the cash portion of the Bright House Transaction and of which $638 million was used to prepay and terminate Charter Operating's existing Term A-1 Loans. Interest on Term Loan A was set at LIBOR plus 2%. As of September 30, 2016, the aggregate principal amount of Charter Operating's credit facilities was $9.0 billion, which includes $3.8 billion aggregate principal amount of CCO Safari III credit facilities that became obligations of Charter Operating upon the closing of the TWC Transaction.

The Credit Agreement and the Charter Operating senior notes are guaranteed by CCO Holdings, TWC, LLC (as defined below), TWCE (as defined below) and substantially all of the operating subsidiaries of Charter Operating (collectively, the "Subsidiary Guarantors"). Term Loan A and borrowings under the incremental revolving credit facility are secured by a perfected first priority security interest in substantially all of the assets of Charter Operating and the Subsidiary Guarantors, subject to certain customary exceptions and the liens rank equally with the liens on the collateral securing obligations under the Charter Operating notes and credit facilities and the Time Warner Cable, LLC (the successor to Legacy TWC outstanding debt obligations, "TWC, LLC") senior notes and debentures and the Time Warner Cable Enterprises LLC ("TWCE") senior debentures assumed in the TWC Transaction.

Assumed Legacy TWC Indebtedness

Charter assumed approximately $22.4 billion in aggregate principal amount of TWC, LLC senior notes and debentures and TWCE senior debentures with varying maturities. The Company applied acquisition accounting to Legacy TWC, and as a result, the debt assumed was adjusted to fair value using quoted market values as of the closing date. This fair value adjustment resulted in recognition of a net debt premium of approximately $2.4 billion.

TWC, LLC Senior Notes and Debentures

The TWC, LLC senior notes and debentures are guaranteed by CCO Holdings, Charter Operating, TWCE and the Subsidiary Guarantors and rank equally with the liens on the collateral securing obligations under the Charter Operating notes and credit facilities. Interest on each series of TWC, LLC senior notes and debentures is payable semi-annually (with the exception of the Sterling Notes, which is payable annually) in arrears.

The TWC, LLC indenture contains customary covenants relating to restrictions on the ability of TWC, LLC or any material subsidiary to create liens and on the ability of TWC, LLC and TWCE to consolidate, merge or convey or transfer substantially all of their assets. The TWC, LLC indenture also contains customary events of default.

The TWC, LLC senior notes and debentures may be redeemed in whole or in part at any time at TWC, LLC's option at a redemption price equal to the greater of (i) all of the applicable principal amount being redeemed and (ii) the sum of the present values of the remaining scheduled payments on the applicable TWC, LLC senior notes and debentures discounted to the redemption date on a semi-annual basis (with the exception of the Sterling Notes, which are on an annual basis), at a comparable government bond rate plus a designated number of basis points as further described in the indenture and the applicable note or debenture, plus, in each case, accrued but unpaid interest to, but not including, the redemption date.

The Company may offer to redeem all, but not less than all, of the Sterling Notes in the event of certain changes in the tax laws of the U.S. (or any taxing authority in the U.S.). This redemption would be at a redemption price equal to 100% of the principal amount, together with accrued and unpaid interest on the Sterling Notes to, but not including, the redemption date.

TWCE Senior Debentures

The TWCE senior debentures are guaranteed by CCO Holdings, Charter Operating, TWC, LLC and the Subsidiary Guarantors and rank equally with the liens on the collateral securing obligations under the Charter Operating notes and credit facilities. Interest on each series of TWCE senior debentures is payable semi-annually in arrears. The TWCE senior debentures are not redeemable before maturity.

The TWCE indenture contains customary covenants relating to restrictions on the ability of TWCE or any material subsidiary to create liens and on the ability of TWC, LLC and TWCE to consolidate, merge or convey or transfer substantially all of their assets. The TWCE indenture also contains customary events of default.

Liquidity and Future Principal Payments

The Company continues to have significant amounts of debt, and its business requires significant cash to fund principal and interest payments on its debt, capital expenditures and ongoing operations. As set forth below, the Company has significant future principal payments. The Company continues to monitor the capital markets, and it expects to undertake refinancing transactions and utilize free cash flow and cash on hand to further extend or reduce the maturities of its principal obligations. The timing and terms of any refinancing transactions will be subject to market conditions.

Based on outstanding indebtedness as of September 30, 2016, the amortization of term loans, and the maturity dates for all senior and subordinated notes and debentures, total future principal payments on the total borrowings under all debt agreements as of September 30, 2016 are as follows:

Year	Amount
Three months ended December 31, 2016	$ 49
2017	2,197
2018	2,197
2019	3,546
2020	5,216
Thereafter	46,963
	$ 60,168

8. Common Stock

The following table summarizes shares outstanding for the nine months ended September 30, 2016 and September 30, 2015:

	Class A Common Stock	Class B Common Stock
BALANCE, December 31, 2014	111,999,687	—
Exercise of stock options	311,344	—
Restricted stock issuances, net of cancellations	6,920	—
Restricted stock units vesting	48,343	—
Purchase of treasury stock	(119,788)	—
BALANCE, September 30, 2015	112,246,506	—
BALANCE, December 31, 2015	112,438,828	—
Reorganization of common stock	(10,771,962)	—
Issuance of shares in TWC Transaction	143,012,155	—
Issuance of shares to Liberty Broadband for cash	25,631,339	—
Issuance of share to A/N in Bright House Transaction	—	1
Exercise of stock options	861,287	—
Restricted stock issuances, net of cancellations	9,811	—
Restricted stock units vesting	1,308,772	—
Purchase of treasury stock	(1,824,839)	—
BALANCE, September 30, 2016	270,665,391	1

The shares outstanding balance shown above as of December 31, 2015 represents historical shares outstanding of Legacy Charter before applying the Parent Merger Exchange Ratio. The 10.8 million shares associated with the reorganization of Charter Class A common stock represents the reduction to Legacy Charter Class A common shares outstanding as of the acquisition date as a result of applying the Parent Merger Exchange Ratio. See Note 2.

Charter Class B common stock represents the share issued to A/N in connection with the Bright House Transaction. One share of Charter's Class B common stock has a number of votes reflecting the voting power of the Charter Holdings common units and Charter Holdings convertible preferred units held by A/N as of the applicable record date on an if-converted, if-exchanged basis, and is generally intended to reflect A/N's economic interests in Charter Holdings.

Share Repurchases

In July 2016, Charter's board of directors authorized the Company to repurchase up to $750 million of Charter's Class A common stock. Under the repurchase program, shares of Charter's Class A common stock may be purchased from time to time during the course of any six-month period. As of September 30, 2016, the Company purchased approximately 1.1 million shares of Charter's Class A common stock for a total of approximately $281 million.

During the three and nine months ended September 30, 2016, the Company withheld 274,545 and 727,616 shares, respectively, of its Class A common stock in payment of $68 million and $167 million, respectively, of income tax withholding owed by employees upon vesting of equity awards. During the three and nine months ended September 30, 2015, the Company withheld 4,192 and 108,312 shares, respectively, of its Class A common stock in payment of $1 million and $24 million, respectively, of income tax withholding owed by employees upon vesting of restricted shares and restricted stock units. During the three and nine months ended September 30, 2016, the Company also withheld 28,397 and 47,190 shares, respectively, of its Class A common stock representing the exercise costs owed by employees upon exercise of stock options.

In December 2015, Charter's board of directors approved the retirement of the then currently held treasury stock and those shares were retired as of December 31, 2015. The Company accounts for treasury stock using the cost method and includes treasury stock as a component of total shareholders' equity (deficit).

9. Noncontrolling Interests

Noncontrolling interests represents consolidated subsidiaries of which the Company owns less than 100%. The Company is a holding company whose principal asset is a controlling equity interest in Charter Holdings, the indirect owner of the Company's cable systems. Noncontrolling interests on the Company's balance sheet primarily includes A/N's equity interests in Charter Holdings, which is comprised of a common ownership interest and a convertible preferred ownership interest.

In connection with the closing of the Bright House Transaction, Charter Holdings issued approximately 31.0 million common units to A/N, which are exchangeable at any time into either Charter Class A common stock on a one-for-one basis, or, at Charter's option, cash, based on the then current market price of Charter Class A common stock. Net income (loss) of Charter Holdings attributable to A/N's common noncontrolling interest for financial reporting purposes is based on the effective common ownership interest of approximately 10%, and was $24 million and $53 million for the three and nine months ended September 30, 2016, respectively. Charter Holdings also issued approximately 25 million convertible preferred units to A/N with a face amount of $2.5 billion that pay a 6% annual preferred dividend. The 6% annual preferred dividend is paid quarterly in cash, if and when declared, provided that, if dividends are suspended at any time, the dividends will accrue until they are paid. Net income (loss) of Charter Holdings attributable to the preferred noncontrolling interest for financial reporting purposes is based on the preferred dividend which was $37 million and $55 million for the three and nine months ended September 30, 2016, respectively. Each convertible preferred unit is convertible into either 0.37334 of a Charter Holdings common unit (if then held by A/N) or 0.37334 of a share of Charter Class A common stock (if then held by a third party), representing a conversion price of $267.85 per unit, based on a conversion feature as defined in the Limited Liability Company Agreement of Charter Holdings. After May 18, 2021, Charter may redeem the convertible preferred units if the price of Charter Class A common stock exceeds 130% of the conversion price. These Charter Holdings common and convertible preferred units held by A/N are recorded in noncontrolling interests as permanent equity on the consolidated balance sheet.

The common units and convertible preferred units issued to A/N as consideration for the Bright House Transaction were initially measured at their fair value of $7.0 billion and $3.2 billion, respectively, in accordance with acquisition accounting. However, upon formation of Charter Holdings, the carrying amounts of the controlling and noncontrolling interests were adjusted to reflect the relative effective common ownership interest in Charter Holdings. In addition, noncontrolling interest and additional paid-in capital were adjusted during the three months ended September 30, 2016 due to changes in Charter Holdings' ownership. These adjustments resulted in an increase to noncontrolling interest of approximately $587 million and a corresponding decrease to additional paid-in capital of $587 million, net of $225 million of deferred income taxes, for the nine months ended September 30, 2016.

10. Accounting for Derivative Instruments and Hedging Activities

The Company uses derivative instruments to manage interest rate risk on variable debt and foreign exchange risk on the Sterling Notes, and does not hold or issue derivative instruments for speculative trading purposes.

Interest rate derivative instruments are used to manage interest costs and to reduce the Company's exposure to increases in floating interest rates. The Company manages its exposure to fluctuations in interest rates by maintaining a mix of fixed and variable rate debt. Using interest rate derivative instruments, the Company agrees to exchange, at specified intervals through 2017, the difference between fixed and variable interest amounts calculated by reference to agreed-upon notional principal amounts. As of September 30, 2016 and December 31, 2015, the Company had $1.1 billion in notional amounts of interest rate derivative instruments outstanding. The notional amounts of interest rate derivative instruments do not represent amounts exchanged by the parties and, thus, are not a measure of exposure to credit loss. The amounts exchanged were determined by reference to the notional amount and the other terms of the contracts.

Upon closing of the TWC Transaction, the Company acquired interest rate derivative instrument assets with a fair value of $85 million (excluding accrued interest), which were terminated and settled with their respective counterparties in the second quarter of 2016 with an $88 million cash payment to the Company of which $14 million was for interest accrued through the date of

termination. The termination resulted in an $11 million loss for the nine months ended September 30, 2016 which was recorded in gain (loss) on financial instruments, net in the consolidated statements of operations.

Upon closing of the TWC Transaction, the Company assumed cross-currency derivative instrument liabilities with a fair value of $72 million (excluding accrued interest). Cross-currency derivative instruments are used to effectively convert £1.275 billion aggregate principal amount of fixed-rate British pound sterling denominated debt, including annual interest payments and the payment of principal at maturity, to fixed-rate U.S. dollar denominated debt. The cross-currency swaps have maturities of June 2031 and July 2042. The Company is required to post collateral on the cross-currency derivative instruments when the derivative contracts are in a liability position. In May 2016, the Company entered into a collateral holiday agreement for 80% of both the 2031 and 2042 cross-currency swaps, which eliminates the requirement to post collateral for three years.

The effect of derivative instruments on the consolidated balance sheets is presented in the table below:

	September 30, 2016	December 31, 2015
Interest Rate Derivatives		
Accrued interest	$ 1	$ 3
Other long-term liabilities	$ 7	$ 10
Accumulated other comprehensive loss	$ (7)	$ (13)
Cross-Currency Derivatives		
Other long-term liabilities	$ 240	$ —

The Company's interest rate and cross-currency derivative instruments are not designated as hedges and are marked to fair value each period, with the impact recorded as a gain or loss on financial instruments, net in the consolidated statements of operations. While these derivative instruments are not designated as cash flow hedges for accounting purposes, management continues to believe such instruments are closely correlated with the respective debt, thus managing associated risk.

The effect of financial instruments on the consolidated statements of operations is presented in the table below.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
Gain (loss) on Financial Instruments, Net:				
Change in fair value of interest rate derivative instruments	$ 7	$ (3)	$ 5	$ (3)
Change in fair value of cross-currency derivative instruments	17	—	(168)	—
Remeasurement of Sterling Notes to U.S. dollars	49	—	196	—
Termination of interest rate derivative instruments	—	—	(11)	—
Loss reclassified from accumulated other comprehensive loss due to discontinuance of hedge accounting	(2)	(2)	(6)	(7)
	$ 71	$ (5)	$ 16	$ (10)

11. Fair Value Measurements

The accounting guidance establishes a three-level hierarchy for disclosure of fair value measurements, based on the transparency of inputs to the valuation of an asset or liability as of the measurement date, as follows:

- Level 1 – inputs to the valuation methodology are quoted prices (unadjusted) for identical assets or liabilities in active markets.
- Level 2 – inputs to the valuation methodology include quoted prices for similar assets and liabilities in active markets, and inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the financial instrument.
- Level 3 – inputs to the valuation methodology are unobservable and significant to the fair value measurement.

Financial Assets and Liabilities

The Company has estimated the fair value of its financial instruments as of September 30, 2016 and December 31, 2015 using available market information or other appropriate valuation methodologies. Considerable judgment, however, is required in interpreting market data to develop the estimates of fair value. Accordingly, the estimates presented in the accompanying consolidated financial statements are not necessarily indicative of the amounts the Company would realize in a current market exchange.

The carrying amounts of cash and cash equivalents, receivables, payables and other current assets and liabilities approximate fair value because of the short maturity of those instruments.

The Company's cash and cash equivalents as of September 30, 2016 and restricted cash and cash equivalents as of December 31, 2015 were primarily invested in money market funds and 90 day or less commercial paper. The money market funds are valued at the closing price reported by the fund sponsor from an actively traded exchange and commercial paper is valued at cost plus the accretion of the discount on a yield to maturity basis, which approximates fair value. The money market funds and commercial paper potentially subject the Company to concentration of credit risk. The amount invested within any one financial instrument did not exceed $250 million and $1.5 billion as of September 30, 2016 and December 31, 2015, respectively. As of September 30, 2016 and December 31, 2015, there were no significant concentrations of financial instruments in a single investee, industry or geographic location.

Interest rate derivative instruments are valued using a present value calculation based on an implied forward LIBOR curve (adjusted for Charter Operating's and counterparties' credit risk). The weighted average pay rate for the Company's currently effective interest rate derivative instruments was 1.61% at September 30, 2016 and December 31, 2015 (exclusive of applicable spreads). The cross-currency derivative instruments are valued using a present value calculation based on expected forward interest and exchange rates (adjusted for Charter Operating's and counterparties' credit risk).

Financial instruments accounted for at fair value on a recurring basis are presented in the table below.

	September 30, 2016			December 31, 2015		
	Level 1	Level 2	Level 3	Level 1	Level 2	Level 3
Assets						
Money market funds	$ 604	$ —	$ —	$ 14,330	$ —	$ —
Commercial paper	$ —	$ —	$ —	$ —	$ 7,934	$ —
Liabilities						
Interest rate derivative instruments	$ —	$ 8	$ —	$ —	$ 13	$ —
Cross-currency derivative instruments	$ —	$ 240	$ —	$ —	$ —	$ —

A summary of the carrying value and fair value of debt as of September 30, 2016 and December 31, 2015 is as follows:

	September 30, 2016		December 31, 2015	
	Carrying Value	Fair Value	Carrying Value	Fair Value
Senior notes and debentures	$ 53,133	$ 56,899	$ 28,433	$ 28,744
Credit facilities	$ 8,863	$ 8,975	$ 7,290	$ 7,274

The estimated fair value of the Company's senior notes and debentures as of September 30, 2016 and December 31, 2015 is based on quoted market prices in active markets and is classified within Level 1 of the valuation hierarchy, while the estimated fair value of the Company's credit facilities is based on quoted market prices in inactive markets and is classified within Level 2.

Nonfinancial Assets and Liabilities

The Company's nonfinancial assets such as equity-method investments, franchises, property, plant, and equipment, and other intangible assets are not measured at fair value on a recurring basis; however, they are subject to fair value adjustments in certain circumstances, such as when there is evidence that an impairment may exist. No impairments were recorded during the three and nine months ended September 30, 2016 and 2015. Upon closing of the Transactions, all of Legacy TWC and Legacy Bright House nonfinancial assets and liabilities were recorded at preliminary fair values. See Note 2.

12. Operating Costs and Expenses

Operating costs and expenses, exclusive of items shown separately in the consolidated statements of operations, consist of the following for the periods presented:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
Programming	$ 2,404	$ 667	$ 4,648	$ 2,004
Regulatory, connectivity and produced content	508	108	936	324
Costs to service customers	1,825	438	3,329	1,285
Marketing	591	163	1,134	474
Transition costs	32	12	78	50
Other	1,122	232	2,032	665
	$ 6,482	$ 1,620	$ 12,157	$ 4,802

Programming costs consist primarily of costs paid to programmers for basic, premium, digital, video on demand, and pay-per-view programming. Regulatory, connectivity and produced content costs represent payments to franchise and regulatory authorities, costs directly related to providing video, Internet and voice services as well as payments for sports, local and news content produced by the Company. Costs to service customers include costs related to field operations, network operations and customer care for the Company's residential and small and medium business customers, including internal and third-party labor for installations, service and repairs, maintenance, billing and collection, occupancy and vehicle costs. Marketing costs represent the costs of marketing to current and potential commercial and residential customers including labor costs. Transition costs represent incremental costs incurred to integrate the TWC and Bright House operations and to increase the scale of the Company's business as a result of the Transactions. See Note 2. Other includes bad debt expense, corporate overhead, advertising sales expense, indirect costs associated with the Company's enterprise business customers and regional sports and news networks, property tax expense, insurance expense and stock compensation expense, among others.

13. Other Operating Expenses, Net

Other operating expenses, net consist of the following for the periods presented:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
Merger and restructuring costs	$ 205	$ 19	$ 775	$ 51
Other pension benefits	(13)	—	(533)	—
Special charges, net	4	1	10	13
(Gain) loss on sale of assets, net	(2)	(1)	(9)	5
	$ 194	$ 19	$ 243	$ 69

Merger and restructuring costs

Merger and restructuring costs represent costs incurred in connection with merger and acquisition transactions and related restructuring, such as advisory, legal and accounting fees, employee retention costs, employee termination costs related to the Transactions and other exit costs. The Company expects to incur additional merger and restructuring costs in connection with the Transactions. Changes in accruals for merger and restructuring costs from December 31, 2015 through September 30, 2016 are presented below:

	Employee Retention Costs	Employee Termination Costs	Transaction and Advisory Costs	Other Costs	Total
Liability, December 31, 2015	$ —	$ —	$ 33	$ —	$ 33
Liability assumed in the Transactions	80	9	3	—	92
Costs incurred	20	219	314	20	573
Cash paid	(91)	(40)	(319)	(20)	(470)
Remaining liability, September 30, 2016	$ 9	$ 188	$ 31	$ —	$ 228

In addition to the costs incurred indicated above, the Company recorded $57 million and $202 million of expense related to accelerated vesting of equity awards of terminated employees for the three and nine months ended September 30, 2016, respectively.

Other pension benefits

Other pension benefits include the pension curtailment gain, remeasurement loss, net, expected return on plan assets and interest cost components of net periodic pension cost (benefit). See Note 19.

Special charges, net

Special charges, net primarily includes employee termination costs not related to the Transactions and net amounts of litigation settlements.

(Gain) loss on sale of assets, net

(Gain) loss on sale of assets, net represents the net (gain) loss recognized on the sales and disposals of fixed assets and cable systems.

14. Income Taxes

Substantially all of the Company's operations are held through Charter Holdings and its direct and indirect subsidiaries. Charter Holdings and the majority of its subsidiaries are generally limited liability companies that are not subject to income tax. However, certain of these limited liability companies are subject to state income tax. In addition, the subsidiaries that are corporations are subject to state income tax. Generally, the taxable income, gains, losses, deductions and credits of Charter Holdings are passed through to its members, Charter and A/N. Charter is responsible for its share of taxable income or loss of Charter Holdings allocated to it in accordance with the CCH Limited Liability Company Agreement ("LLC Agreement") and partnership tax rules and regulations. Charter also records financial statement deferred tax assets and liabilities related to its investment, and its underlying net assets, in Charter Holdings.

For the three and nine months ended September 30, 2016, the Company recorded $16 million of income tax expense and $3.1 billion of income tax benefit, respectively. For the three and nine months ended September 30, 2015, the Company recorded $142 million and $72 million of income tax benefit, respectively. Income tax expense for the three months ended September 30, 2016 was offset by a change in a state tax law that resulted in approximately $44 million of tax benefit. Income tax benefit for the nine months ended September 30, 2016 was recognized primarily through the reversal of approximately $3.3 billion of valuation allowance (see further discussion below), net of tax effect of permanent differences, a decrease to the anticipated blended state rate applied to Legacy Charter deferred tax balances as a result of the Transactions, a change in a state tax law, and prior to the closing of the Transactions, increases (decreases) in deferred tax liabilities related to Charter's franchises which are characterized as indefinite-lived for book financial reporting purposes. Income tax benefit for the three and nine months ended September 30, 2015 was primarily the result of the deemed liquidation of Charter Holdco in July 2015. The tax provision in future periods will vary based on future operating results, as well as future book versus tax differences.

Charter Holdings, the indirect owner of the Company's cable systems, generally allocates its taxable income, gains, losses, deductions and credits proportionately according to the members' respective ownership interests, except for special allocations required under Section 704(c) of the Internal Revenue Code and the Treasury Regulations ("Section 704(c)"). Pursuant to Section 704(c) and the LLC Agreement, each item of income, gain, loss and deduction with respect to any property contributed to the capital of the partnership shall, solely for tax purposes, be allocated among the members so as to take into account any variation between the adjusted basis of such property to the partnership for U.S. federal income tax purposes and its initial gross asset value using the "traditional method" as described in the Treasury Regulations.

Under the LLC Agreement, A/N has rights to: (1) convert at any time some or all of its preferred units in Charter Holdings for common units in Charter Holdings, and (2) exchange at any time some or all of its common units in Charter Holdings for Charter's Class A common stock or cash, at Charter's option. Pursuant to a tax receivable agreement between Charter and A/N, Charter must pay to A/N 50% of the tax benefit when realized by Charter from the step-up in tax basis resulting from any future exchange or sale of the preferred and common units. Charter has not recorded a liability for this obligation since the tax benefit is dependent on uncertain future events that are outside of Charter's control, such as the timing of a conversion or exchange. A future exchange or sale is not based on a fixed and determinable date and the exchange or sale is not certain to occur. If and when an exchange or sale occurs in the future, the undiscounted value of the obligation is currently estimated to be in the range of zero to $3 billion depending on measurement of the tax step-up in the future and Charter's ability to realize the tax benefit in the periods following the exchange or sale. Factors impacting these calculations include, but are not limited to, the fair value of the equity at the time of the exchange and the effective tax rates when the benefits are realized.

Upon closing of the TWC Transaction, Charter experienced a third "ownership change" as defined in Section 382 of the Internal Revenue Code; resulting in a third set of limitations on Charter's use of its existing federal and state net operating losses, capital losses, and tax credit carryforwards. Both the first ownership change limitations that applied as a result of Legacy Charter's emergence from bankruptcy in 2009 and second ownership change limitations that applied as a result of Liberty Media Corporation's purchase in 2013 of a 27% beneficial interest in Legacy Charter will also continue to apply. Since the limitation amounts accumulate for future use to the extent they are not utilized in any given year, Charter believes its loss carryforwards should become fully available to offset future taxable income. Charter's state loss carryforwards are subject to similar, but varying, limitations on their future use. If Charter was to experience another "ownership change" in the future, its ability to use its loss carryforwards could be subject to further limitations.

In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will be realized. In evaluating the need for a valuation allowance, management takes into account

various factors, including the expected level of future taxable income, available tax planning strategies and reversals of existing taxable temporary differences. Due to Legacy Charter's history of losses, Legacy Charter was historically unable to assume future taxable income in its analysis and accordingly valuation allowances were established against the deferred tax assets, net of deferred tax liabilities, from definite-lived assets for book accounting purposes. However, as a result of the TWC Transaction, deferred tax liabilities resulting from the book fair value adjustment increased significantly and future taxable income that will result from the reversal of existing temporary differences for which deferred tax liabilities are recognized, is sufficient to conclude it is more likely than not that the Company will realize substantially all of its deferred tax assets. As a result, Charter reversed approximately $3.3 billion of its valuation allowance and recognized a corresponding income tax benefit in the consolidated statements of operations during the nine months ended September 30, 2016. Approximately $15 million of valuation allowance associated with state loss carryforwards and other miscellaneous deferred tax assets remains on the September 30, 2016 consolidated balance sheet.

In determining the Company's tax provision for financial reporting purposes, the Company establishes a reserve for uncertain tax positions unless such positions are determined to be "more likely than not" of being sustained upon examination, based on their technical merits. There is considerable judgment involved in making such a determination. In connection with the TWC Transaction, the Company assumed $218 million of gross unrecognized tax benefits (net of return to provision adjustments), including interest and penalties, which are recorded within other long-term liabilities. The net amount of the unrecognized tax benefits that would impact the effective tax rate is $156 million. There were $4 million of additional increases to the Company's unrecognized tax benefits during the nine months ended September 30, 2016. The Company does not currently anticipate that its reserve for uncertain tax positions will significantly increase or decrease during 2016; however, various events could cause the Company's current expectations to change in the future. These uncertain tax positions, if ever recognized in the financial statements, would be recorded in the consolidated statements of operations as part of the income tax provision.

No tax years for Charter, Charter Holdings, or Charter Communications Holding Company, LLC for income tax purposes, are currently under examination by the IRS. Legacy Charter's tax years ending 2012 through the short period return dated May 17, 2016 remain subject to examination and assessment. Years prior to 2012 remain open solely for purposes of examination of Legacy Charter's loss and credit carryforwards. The IRS is currently examining Legacy TWC's income tax returns for 2011 and 2012. Legacy TWC's tax years ending 2013 through 2015 remain subject to examination and assessment. Prior to Legacy TWC's separation from Time Warner Inc. ("Time Warner") in March 2009 (the "Separation"), Legacy TWC was included in the consolidated U.S. federal and certain state income tax returns of Time Warner. The IRS is currently examining Time Warner's 2008 through 2010 income tax returns. Time Warner's income tax returns for 2005 to 2007, which are periods prior to the separation, were settled with the exception of an immaterial item that has been referred to the IRS Appeals Division. The Company does not anticipate that these examinations will have a material impact on the Company's consolidated financial position or results of operations. In addition, the Company is also subject to ongoing examinations of the Company's tax returns by state and local tax authorities for various periods. Activity related to these state and local examinations did not have a material impact on the Company's consolidated financial position or results of operations in 2015, nor does the Company anticipate a material impact in the future.

15. Earnings (Loss) Per Share

Basic earnings (loss) per common share is computed by dividing net income (loss) attributable to Charter shareholders by the weighted average number of shares of common stock outstanding during the period. Diluted earnings per common share considers the impact of potentially dilutive securities using the treasury stock and if-converted methods and is based on the weighted average number of shares used for the basic earnings per share calculation, adjusted for the dilutive effect of stock options, restricted stock, restricted stock units, equity awards with market conditions and Charter Holdings convertible preferred units and common units. Weighted average number of shares outstanding for all periods presented has been recast to reflect the application of the Parent Merger Exchange Ratio. Basic loss per common share equals diluted loss per common share for the nine months ended September 30, 2015 because the Company incurred a net loss during that period. The following is the computation of diluted earnings per common share for the three months ended September 30, 2016 and 2015 and nine months ended September 30, 2016.

	Three Months Ended September 30,		Nine Months Ended September 30,
	2016	2015	2016
Numerator:			
Net income attributable to Charter shareholders	$ 189	$ 54	$ 3,068
Effect of dilutive securities:			
Charter Holdings common units	—	—	53
Charter Holdings convertible preferred units	—	—	55
Net income attributable to Charter shareholders after assumed conversions	$ 189	$ 54	$ 3,176
Denominator:			
Weighted average common shares outstanding, basic	271,263,259	101,205,400	185,706,106
Effect of dilutive securities:			
Assumed exercise or issuance of shares relating to stock plans	4,109,943	1,276,524	2,736,562
Weighted average Charter Holdings common units	—	—	15,384,794
Weighted average Charter Holdings convertible preferred units	—	—	4,632,686
Weighted average common shares outstanding, diluted	275,373,202	102,481,924	208,460,148
Basic earnings per common share attributable to Charter shareholders	$ 0.70	$ 0.54	$ 16.52
Diluted earnings per common share attributable to Charter shareholders	$ 0.69	$ 0.53	$ 15.23

16. Related Party Transactions

On May 23, 2015, in connection with the execution of the Merger Agreement and the amendment of the Contribution Agreement, Charter entered into the Amended and Restated Stockholders Agreement with Liberty Broadband, A/N and Legacy Charter (the "Stockholders Agreement"). As of the closing of the Merger Agreement and the Contribution Agreement on May 18, 2016, the Stockholders Agreement replaced Legacy Charter's existing stockholders agreement with Liberty Broadband, dated September 29, 2014, and superseded the amended and restated stockholders agreement among Legacy Charter, Charter, Liberty Broadband and A/N, dated March 31, 2015.

Under the terms of the Stockholders Agreement, the number of Charter's directors is fixed at 13, and includes its chief executive officer. Upon the closing of the Bright House Transaction, two designees selected by A/N became members of the board of directors of Charter and three designees selected by Liberty Broadband continued as members of the board of directors of Charter. The remaining eight directors are not affiliated with either A/N or Liberty Broadband. Each of A/N and Liberty Broadband is entitled

to nominate at least one director to each of the committees of Charter's board of directors, subject to applicable stock exchange listing rules and certain specified voting or equity ownership thresholds for each of A/N and Liberty Broadband, and provided that the Nominating and Corporate Governance Committee and the Compensation and Benefit Committee each have at least a majority of directors independent from A/N, Liberty Broadband and the Company (referred to as the "unaffiliated directors"). Each of the Nominating and Corporate Governance Committee and the Compensation and Benefits Committee is currently comprised of three unaffiliated directors, including one designee of each of A/N and Liberty Broadband. A/N and Liberty Broadband also have certain other committee designation and other governance rights. Upon the closing of the Bright House Transaction, Mr. Thomas Rutledge, the Company's Chief Executive Officer ("CEO"), became the chairman of the board of Charter.

The Company is aware that Dr. John Malone may be deemed to have a 36.4% voting interest in Liberty Interactive and is Chairman of the board of directors, an executive officer position, of Liberty Interactive. Liberty Interactive owns 38.3% of the common stock of HSN, Inc. ("HSN") and has the right to elect 20% of the board members of HSN. Liberty Interactive wholly owns QVC, Inc. ("QVC"). The Company has programming relationships with HSN and QVC which pre-date the transaction with Liberty Media. For the three and nine months ended September 30, 2016, the Company recorded payments in aggregate of approximately $18 million and $33 million, respectively, and for the three and nine months ended September 30, 2015, the Company recorded payments in aggregate of approximately $4 million and $12 million, respectively, from HSN and QVC as part of channel carriage fees and revenue sharing arrangements for home shopping sales made to customers in the Company's footprint.

Dr. Malone and Mr. Steven Miron, each a member of Charter's board of directors, also serve on the board of directors of Discovery Communications, Inc., ("Discovery") and the Company is aware that Dr. Malone owns 4.9% in the aggregate of the common stock of Discovery and has a 28.6% voting interest in Discovery for the election of directors. The Company is aware that Advance/Newhouse Programming Partnership ("A/N PP"), an affiliate of A/N and in which Mr. Miron is the CEO, owns 100% of the Series A preferred stock of Discovery and 100% of the Series C preferred stock of Discovery, representing approximately 34.0% of the outstanding equity of Discovery's stock, on an as-converted basis. A/N PP has the right to appoint three directors out of a total of ten directors to Discovery's board to be elected by the holders of Discovery's Series A preferred stock. In addition, Dr. Malone owns approximately 6.4% in the aggregate of the common stock of Starz and has 48.1% of the voting power, pursuant to certain irrevocable proxies granted by Lions Gate Entertainment Corp. and his ownership of common stock. Mr. Gregory Maffei, a member of Charter's board of directors, is a non-executive Chairman of the board of Starz. The Company purchases programming from both Discovery and Starz pursuant to agreements entered into prior to Dr. Malone, Mr. Maffei and Mr. Miron joining Charter's board of directors. Based on publicly available information, the Company does not believe that either Discovery or Starz would currently be considered related parties. The amounts paid in aggregate to Discovery and Starz represent less than 3% of total operating costs and expenses for the three and nine months ended September 30, 2016 and 2015.

The Company has agreements with certain equity-method investees (see Note 5) pursuant to which the Company has made or received related party transaction payments. The Company recorded payments to equity-method investees totaling $67 million and $108 million during the three and nine months ended September 30, 2016, respectively, and $1 million and $2 million during the three and nine months ended September 30, 2015, respectively. The Company recorded advertising revenues from transactions with equity-method investees totaling $3 million and $4 million during the three and nine months ended September 30, 2016, respectively. The Company has loans outstanding to investees of $5 million as of September 30, 2016.

17. Commitments and Contingencies

Commitments

The following table summarizes the Company’s payment obligations as of September 30, 2016 for its contractual obligations.

	Capital and Operating Lease Obligations (1)	Programming Minimum Commitments (2)	Other (3)	Total
Three months ended December 31, 2016	$ 82	$ 58	$ 291	$ 431
2017	240	223	851	1,314
2018	210	35	773	1,018
2019	167	24	657	848
2020	128	15	654	797
Thereafter	505	—	10,105	10,610
	$ 1,332	$ 355	$ 13,331	$ 15,018

(1) The Company leases certain facilities and equipment under non-cancelable capital and operating leases. Leases and rental costs charged to expense for the three months ended September 30, 2016 and 2015 were $79 million and $12 million, respectively, and for the nine months ended September 30, 2016 and 2015 were $136 million and $36 million, respectively.

(2) The Company pays programming fees under multi-year contracts ranging from three to ten years, typically based on a flat fee per customer, which may be fixed for the term, or may in some cases escalate over the term. Programming costs included in the statement of operations were $2.4 billion and $667 million for the three months ended September 30, 2016 and 2015, respectively, and $4.6 billion and $2.0 billion for the nine months ended September 30, 2016 and 2015, respectively. Certain of the Company’s programming agreements are based on a flat fee per month or have guaranteed minimum payments. The table sets forth the aggregate guaranteed minimum commitments under the Company’s programming contracts.

(3) “Other” represents other guaranteed minimum commitments, including programming rights negotiated directly with content owners for distribution on Company-owned channels or networks and commitments related to the Company’s role as an advertising and distribution sales agent for third party-owned channels or networks as well as commitments to the Company’s customer premise equipment vendors.

The following items are not included in the contractual obligation table due to various factors discussed below. However, the Company incurs these costs as part of its operations:

- The Company rents utility poles used in its operations. Generally, pole rentals are cancelable on short notice, but the Company anticipates that such rentals will recur. Rent expense incurred for pole rental attachments for the three months ended September 30, 2016 and 2015 were $36 million and $13 million, respectively, and for the nine months ended September 30, 2016 and 2015 were $74 million and $39 million, respectively.
- The Company pays franchise fees under multi-year franchise agreements based on a percentage of revenues generated from video service per year. The Company also pays other franchise related costs, such as public education grants, under multi-year agreements. Franchise fees and other franchise-related costs included in the accompanying statement of operations for the three months ended September 30, 2016 and 2015 were $177 million and $52 million, respectively, and for the nine months ended September 30, 2016 and 2015 were $356 million and $158 million, respectively.
- The Company also has $325 million in letters of credit, of which $220 million is secured under the Charter Operating credit facility, primarily to its various worker’s compensation, property and casualty, and general liability carriers, as collateral for reimbursement of claims.

Litigation

In 2014, following an announcement by Comcast and Legacy TWC of their intent to merge, Breffni Barrett and others filed suit in the Supreme Court of the State of New York for the County of New York against Comcast, Legacy TWC and their respective officers and directors. Later five similar class actions were consolidated with this matter (the "NY Actions"). The NY Actions were settled in July 2014, however, such settlement was terminated following the termination of the Comcast and TWC merger in April 2015. In May 2015, Charter and TWC announced their intent to merge. Subsequently, the parties in the NY Actions filed a Second Consolidated Class Action Complaint (the "Second Amended Complaint"), removing Comcast as a defendant and naming TWC, the members of the TWC board of directors, Charter and the merger subsidiaries as defendants. The Second Amended Complaint generally alleges, among other things, that the members of the TWC board of directors breached their fiduciary duties to TWC stockholders during the Charter merger negotiations and by entering into the merger agreement and approving the mergers, and that Charter aided and abetted such breaches of fiduciary duties. The complaint sought, among other relief, injunctive relief enjoining the stockholder vote on the mergers, unspecified declaratory and equitable relief, compensatory damages in an unspecified amount, and costs and attorneys' fees.

In September 2015, the parties entered into a memorandum of understanding ("MOU") to settle the action. Pursuant to the MOU, the defendants issued certain supplemental disclosures relating to the mergers on a Form 8-K, and plaintiffs agreed to release with prejudice all claims that could have been asserted against defendants in connection with the mergers. The settlement is conditioned on, among other things, approval by the New York Supreme Court. That court gave preliminary approval to the settlement in October 2016. A hearing to consider final approval of this settlement is set for March 2017. In the event that the New York Supreme Court does not approve the settlement, the defendants intend to vigorously defend against any further litigation.

In August 2015, a purported stockholder of Charter, Matthew Sciabacucchi, filed a lawsuit in the Delaware Court of Chancery, on behalf of a putative class of Charter stockholders, challenging the transactions between Charter, TWC, A/N, and Liberty Broadband announced by Charter on May 26, 2015 (collectively, the "Transactions"). The lawsuit names as defendants Liberty Broadband, Charter, the board of directors of Charter, and New Charter. Plaintiff alleged that the Transactions improperly benefit Liberty Broadband at the expense of other Charter shareholders, and that Charter issued a false and misleading proxy statement in connection with the Transactions. Plaintiff requested, among other things, that the Delaware Court of Chancery enjoin the September 21, 2015 special meeting of Charter stockholders at which Charter stockholders were asked to vote on the Transactions until the defendants disclosed certain information relating to Charter and the Transactions. The disclosures demanded by the plaintiff included (i) certain unlevered free cash flow projections for Charter and (ii) a Form of Proxy and Right of First Refusal Agreement ("Proxy") by and among Liberty Broadband, A/N, Charter and New Charter, which was referenced in the description of the Second Amended and Restated Stockholders Agreement, dated May 23, 2015, among Charter, New Charter, Liberty Broadband and A/N. On September 9, 2015, Charter issued supplemental disclosures containing unlevered free cash flow projections for Charter. In return, the plaintiff agreed its disclosure claims were moot and withdrew its application to enjoin the Charter stockholder vote on the Transactions. Charter has filed a motion to dismiss this litigation but the court has not yet ruled upon it. Charter denies any liability, believes that it has substantial defenses, and intends to vigorously defend this suit.

The California Attorney General and the Alameda County, California District Attorney are investigating whether certain of Legacy Charter's waste disposal policies, procedures and practices are in violation of the California Business and Professions Code and the California Health and Safety Code. That investigation was commenced in January 2014. A similar investigation involving Legacy TWC was initiated in February 2012. Charter is cooperating with these investigations. While the Company is unable to predict the outcome of these investigations, it does not expect that the outcome will have a material effect on its operations, financial condition, or cash flows.

On December 19, 2011, Sprint Communications Company L.P. ("Sprint") filed a complaint in the U.S. District Court for the District of Kansas alleging that Legacy TWC infringes 12 patents purportedly relating to Voice over Internet Protocol ("VoIP") services. The plaintiff is seeking monetary damages as well as injunctive relief. On October 8, 2015, the court stayed this litigation pending Sprint's appeal of a judgment in a parallel case against Cox Communications, Inc. ("Cox Communications") in the U.S. District Court for the District of Delaware invalidating six of the 12 patents at issue in the Legacy TWC litigation. The stay applied to all 12 patents at issue in Sprint's complaint against Legacy TWC. On September 23, 2016, the U.S. Court of Appeals for the Federal Circuit reversed the district court's order in the Cox Communications litigation invalidating the six patents. On October 5, 2016, as a result of the Federal Circuit opinion, the Kansas court lifted the stay of the Legacy TWC case. Charter intends to defend against this lawsuit vigorously, but is unable to predict the outcome of this lawsuit or reasonably estimate a range of possible loss.

The Company is a defendant or co-defendant in several lawsuits involving alleged infringement of various patents relating to various aspects of its businesses. Other industry participants are also defendants in certain of these cases. In the event that a court ultimately determines that the Company infringes on any intellectual property rights, the Company may be subject to substantial damages and/or an injunction that could require the Company or its vendors to modify certain products and services the Company offers to its subscribers, as well as negotiate royalty or license agreements with respect to the patents at issue. While the Company believes the lawsuits are without merit and intends to defend the actions vigorously, no assurance can be given that any adverse outcome would not be material to the Company's consolidated financial condition, results of operations, or liquidity. The Company cannot predict the outcome of any such claims nor can it reasonably estimate a range of possible loss.

The Company is party to lawsuits and claims that arise in the ordinary course of conducting its business, including lawsuits claiming violation of wage and hour laws and breach of contract by vendors, including by three programmers. The ultimate outcome of these other legal matters pending against the Company cannot be predicted, and although such lawsuits and claims are not expected individually to have a material adverse effect on the Company's consolidated financial condition, results of operations or liquidity, such lawsuits could have, in the aggregate, a material adverse effect on the Company's consolidated financial condition, results of operations or liquidity. Whether or not the Company ultimately prevails in any particular lawsuit or claim, litigation can be time consuming and costly and injure the Company's reputation.

18. Stock Compensation Plans

Legacy Charter's 2009 Stock Incentive Plan (assumed by Charter upon closing of the Transactions) provides for grants of nonqualified stock options, incentive stock options, stock appreciation rights, dividend equivalent rights, performance units and performance shares, share awards, phantom stock, restricted stock units and restricted stock. Directors, officers and other employees of the Company and its subsidiaries, as well as others performing consulting services for the Company, are eligible for grants under the 2009 Stock Incentive Plan. In April 2016, Charter's board of directors and stockholders approved an additional 9 million shares of Charter Class A common stock (or units convertible into Charter Class A common stock) under the 2009 Stock Incentive Plan.

At the closing of the TWC Transaction, Legacy TWC employee equity awards were converted into Charter Class A common stock equity awards on the same terms and conditions as were applicable under the Legacy TWC equity awards, except that the number of shares covered by each award and the option exercise prices were adjusted for the Stock Award Exchange Ratio (as defined in the Merger Agreement) such that the intrinsic value of the Converted TWC Awards was approximately equal to that of the original awards at the closing of the Transactions. The Converted TWC Awards represented approximately 4 million Charter restricted stock units and 0.8 million Charter stock options (0.5 million of which were exercisable at the time of conversion) and continue to be subject to the terms of the Legacy TWC equity plans. The Converted TWC Awards were measured at their fair value as of the closing of the TWC Transaction. Of that fair value, $514 million related to Legacy TWC employee pre-combination service and was treated as consideration transferred in the TWC Transaction (See Note 2), while $539 million relates to post-combination service and will be amortized to stock compensation expense over the remaining vesting period of the awards. The fair values of the Converted TWC Awards were based on a valuation using assumptions developed by management and other information compiled by management including, but not limited to, historical volatility and exercise trends of Legacy Charter and Legacy TWC.

The Parent Merger Exchange Ratio was also applied to outstanding Legacy Charter equity awards and option exercise prices; however, the terms of the equity awards did not change as a result of the Transactions. Charter granted the following equity awards, excluding the Converted TWC Awards, for the periods presented after applying the Parent Merger Exchange Ratio, as applicable.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	**2015**	**2016**	**2015**
Stock options	275,400	2,100	5,980,800	1,146,300
Restricted stock	400	—	10,400	6,300
Restricted stock units	39,300	500	890,700	138,400

Legacy Charter stock options granted prior to 2014 generally vest annually over three years from either the grant date or delayed vesting commencement dates. Stock options generally expire ten years from the grant date. Restricted stock generally vests annually one year from the date of grant. Certain stock options and restricted stock units vest based on achievement of stock price hurdles. Restricted stock units have no voting rights, and restricted stock units granted prior to 2014 vest ratably over three years from either the grant date or delayed vesting commencement dates. Beginning in 2014, stock options and restricted stock units granted cliff vest upon the three year anniversary of each grant. Legacy TWC restricted stock units that were converted into Charter restricted stock units generally vest 50% on each of the third and fourth anniversary of the grant date. Legacy TWC stock options that were converted into Charter stock options vest ratably over a four-year period and expire ten years from the grant date.

As of September 30, 2016, total unrecognized compensation remaining to be recognized in future periods totaled $296 million for stock options, $1 million for restricted stock and $364 million for restricted stock units and the weighted average period over which they are expected to be recognized is four years for stock options, one year for restricted stock and three years for restricted stock units.

The Company recorded $81 million and $168 million of stock compensation expense for the three and nine months ended September 30, 2016, respectively, which is included in operating costs and expenses. The Company also recorded $57 million and $202 million of expense for the three and nine months ended September 30, 2016, respectively, related to accelerated vesting of equity awards of terminated employees which is recorded in merger and restructuring costs. For the three and nine months ended September 30, 2015, the Company recorded $20 million and $58 million of stock compensation expense, respectively, which is included in operating costs and expenses. In connection with the TWC Transaction, Charter settled restricted stock units in the amount of $59 million for cash to be paid prior to the end of 2016 which amount is recorded in accounts payables and accrued liabilities in the consolidated balance sheets as of September 30, 2016.

19. Employee Benefit Plans

Upon completion of the TWC Transaction, Charter assumed sponsorship of Legacy TWC's pension plans. The Company sponsors two qualified defined benefit pension plans, the TWC Pension Plan and the TWC Union Pension Plan, that provide pension benefits to a majority of Legacy TWC employees. The Company also provides a nonqualified defined benefit pension plan for certain employees under the TWC Excess Pension Plan.

Pension benefits are based on formulas that reflect the employees' years of service and compensation during their employment period. Actuarial gains or losses are changes in the amount of either the benefit obligation or the fair value of plan assets resulting from experience different from that assumed or from changes in assumptions. The Company has elected to follow a mark-to-market pension accounting policy for recording the actuarial gains or losses annually during the fourth quarter, or earlier if a remeasurement event occurs during an interim period.

Pension benefits are recorded as a net asset or liability for the overfunded or underfunded status of defined benefit pension plans and changes in the funded status are recorded in the year in which the changes occur. As of the closing date of the TWC Transaction, the excess of the projected benefit obligation over the fair value of plan assets was recognized as a liability and deferred actuarial losses and prior service credits previously recognized were eliminated in acquisition accounting. As of the closing date of the TWC Transaction, the projected benefit obligation and the fair value of plan assets for the pension plans were $4.0 billion and $2.9 billion, respectively, and the net underfunded liability of the pension plans was recorded as a $6 million current pension liability and $1.1 billion long-term pension liability in acquisition accounting.

The rate of compensation increase used to measure the projected benefit obligation as of the closing of the TWC Transaction was an age-graded average increase of 4.25%. The weighted average of discount rates used to measure the projected benefit obligation at the closing date of the TWC Transaction was 3.99%. The Company determined the discount rates based on the yield of a large population of high-quality corporate bonds with cash flows sufficient in timing and amount to settle projected future defined benefit payments. The Company also utilized the RP 2015/MP 2015 mortality tables published by the Society of Actuaries to measure the projected benefit obligation as of the closing date of the TWC Transaction. In addition, the expected long-term rate of return on plan assets used to determine a component of net periodic benefit cost was 6.50%. In developing the expected long-term rate of return on plan assets, the Company considered the pension portfolio's composition, past average rate of earnings and the Company's future asset allocation targets.

Pension Plan Assets

The assets of the qualified pension plans are held in a master trust in which the qualified pension plans are the only participating plans. The investment policy for the qualified pension plans is to achieve a reasonable long-term rate of return on plan assets with an acceptable level of risk in order to maintain adequate funding levels. The investment portfolio is a mix of fixed-income and equity securities with the objective of matching plan liability performance, diversifying risk and achieving a target investment return. The Company's allocation of plan assets includes fixed-income and equity securities of 39% and 61%, respectively, the substantial majority of which consist of Level 1 or Level 2 fair value measurements.

Net Periodic Pension Cost (Benefit)

The components of net periodic pension cost (benefit) for the three and nine months ended September 30, 2016 consisted of the following:

	Three Months Ended September 30, 2016	Nine Months Ended September 30, 2016
Service cost	$ 51	$ 86
Interest cost	34	55
Expected return on plan assets	(47)	(70)
Pension curtailment gain	—	(675)
Remeasurement loss, net	—	157
Net periodic pension cost (benefit)	$ 38	$ (447)

The service cost component of net periodic pension cost (benefit) is recorded in operating costs and expenses in the consolidated statements of operations. The effects of the plan amendment made subsequent to the TWC Transaction, discussed below, resulted in a $675 million pension curtailment gain and $157 million remeasurement loss, net recorded in other operating expenses, net in the consolidated statements of operations during the nine months ended September 30, 2016.

Pension Plan Curtailment Amendment

Following the closing of the TWC Transaction, Charter amended the pension plans to freeze future benefit accruals to current active plan participants as of August 31, 2016. Effective September 1, 2016, no future compensation increases or future service will be credited to participants of the pension plans and new hires will not be eligible to participate in the plans. Upon announcement and approval of the plan amendment, the assumptions underlying the pension liability and pension asset values were reassessed utilizing remeasurement date assumptions in accordance with Charter's mark-to-market pension accounting policy to record gains and losses in the period in which a remeasurement event occurs. The $675 million curtailment gain recorded during the nine months ended September 30, 2016 was primarily driven by the reduction of the compensation rate assumption to zero in accordance with the terms of the plan amendment, reflecting the pension liability at its accumulated benefit obligation instead of its projected benefit obligation at the remeasurement date. The $157 million remeasurement loss recorded during the nine months ended September 30, 2016 was primarily driven by the effects of a reduction of the discount rate from 3.99% at the closing date of the TWC Transaction to 3.72% at remeasurement date, net of a gain to record pension assets at June 30, 2016 fair values. As of the remeasurement date, June 30, 2016, the accumulated benefit obligation and fair value of plan assets for the pension plans was $3.6 billion and $2.9 billion, respectively, for a net underfunded liability of $647 million.

Pension Plan Contributions

The Company made no cash contributions to the qualified pension plans during the three and nine months ended September 30, 2016; however, the Company may make discretionary cash contributions to the qualified pension plans in the future. Such contributions will be dependent on a variety of factors, including current and expected interest rates, asset performance, the funded status of the qualified pension plans and management's judgment. For the nonqualified unfunded pension plan, the Company will continue to make contributions during the remainder of 2016 to the extent benefits are paid.

Defined Contribution Benefit Plans

Upon completion of the TWC Transaction, Charter assumed Legacy TWC's defined contribution plan, the TWC Savings Plan. In June 2016, the Company announced changes to both the Charter Communications, Inc. 401(k) Plan (the "401(k) Plan") and the TWC Savings Plan that were effective September 1, 2016. The Company's matching contribution to the 401(k) Plan and the TWC Savings Plan equal 100% of the amount of the salary reduction the participant elects to defer up to 6% of the participant's eligible pay. For employees who are not eligible to participate in the Company's long-term incentive plan and who are not covered by a collective bargaining agreement, the Company also provides a contribution to a new Retirement Accumulation Plan, equal to 3% of eligible pay.

20. Consolidating Schedules

Each of Charter Operating, TWC, LLC, TWCE, CCO Holdings and certain subsidiaries jointly, severally, fully and unconditionally guarantee the outstanding debt securities of the others (other than the CCO Holdings notes) on an unsecured senior basis and the condensed consolidating financial information has been prepared and presented pursuant to SEC Regulation S-X Rule 3-10, *Financial Statements of Guarantors and Issuers of Guaranteed Securities Registered or Being Registered.* Certain Charter Operating subsidiaries that are regulated telephone entities only become guarantor subsidiaries upon approval by regulators. This information is not intended to present the financial position, results of operations and cash flows of the individual companies or groups of companies in accordance with generally accepted accounting principles.

The "Charter Operating and Restricted Subsidiaries" column is presented to comply with the terms of the Credit Agreement.

The "Safari Escrow Entities" column included in the condensed consolidating financial statements as of December 31, 2015 and for the nine months ended September 30, 2016 and 2015 consists of CCOH Safari, CCO Safari II and CCO Safari III. CCOH Safari, CCO Safari II and CCO Safari III issued the CCOH Safari notes, CCO Safari II notes and the CCO Safari III credit facilities, respectively. Upon closing of the TWC Transaction, the CCOH Safari notes became obligations of CCO Holdings and CCO Holdings Capital and the CCO Safari II notes and CCO Safari III credit facilities became obligations of Charter Operating and Charter Communications Operating Capital Corp. CCOH Safari merged into CCO Holdings and CCO Safari II and CCO Safari III merged into Charter Operating.

The "Unrestricted Subsidiary" column included in the condensed consolidating financial statements for the nine months ended September 30, 2015 consists of CCO Safari which was a non-recourse subsidiary under the Credit Agreement and held the CCO Safari Term G Loans that were repaid in April 2015.

Condensed consolidating financial statements as of September 30, 2016 and December 31, 2015 and for the nine months ended September 30, 2016 and 2015 follow.

EXHIBIT A

CHARTER COMMUNICATIONS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)
(dollars in millions, except per share amounts and where indicated)

Charter Communications, Inc. and Subsidiaries
Condensed Consolidating Balance Sheets
As of September 30, 2016

	Non-Guarantor Subsidiaries		Guarantor Subsidiaries			
	Charter	Intermediate Holding Companies	CCO Holdings	Charter Operating and Restricted Subsidiaries	Eliminations	Charter Consolidated
ASSETS						
CURRENT ASSETS:						
Cash and cash equivalents	$ 30	$ 139	$ —	$ 996	$ —	$ 1,165
Accounts receivable, net	—	13	—	1,229	—	1,242
Receivables from related party	—	411	58	—	(469)	—
Prepaid expenses and other current assets	—	23	—	351	—	374
Total current assets	30	586	58	2,576	(469)	2,781
INVESTMENT IN CABLE PROPERTIES:						
Property, plant and equipment, net	—	224	—	32,657	—	32,881
Franchises	—	—	—	66,245	—	66,245
Customer relationships, net	—	—	—	15,439	—	15,439
Goodwill	—	—	—	30,165	—	30,165
Total investment in cable properties, net	—	224	—	144,506	—	144,730
INVESTMENT IN SUBSIDIARIES	66,493	76,253	89,165	—	(231,911)	—
LOANS RECEIVABLE – RELATED PARTY	—	640	494	—	(1,134)	—
OTHER NONCURRENT ASSETS	—	214	—	1,172	—	1,386
Total assets	$ 66,523	$ 77,917	$ 89,717	$ 148,254	$ (233,514)	$ 148,897
LIABILITIES AND SHAREHOLDERS'/MEMBER'S EQUITY						
CURRENT LIABILITIES:						
Accounts payable and accrued liabilities	$ 30	$ 563	$ 209	$ 5,795	$ —	$ 6,597
Payables to related party	12	—	—	457	(469)	—
Current portion of long-term debt	—	—	—	2,050	—	2,050
Total current liabilities	42	563	209	8,302	(469)	8,647
LONG-TERM DEBT	—	—	13,255	46,691	—	59,946
LOANS PAYABLE – RELATED PARTY	—	—	—	1,134	(1,134)	—
DEFERRED INCOME TAXES	26,201	27	—	32	—	26,260
OTHER LONG-TERM LIABILITIES	3	61	—	2,905	—	2,969
SHAREHOLDERS'/MEMBER'S EQUITY						
Controlling interest	40,277	66,493	76,253	89,165	(231,911)	40,277
Noncontrolling interests	—	10,773	—	25	—	10,798
Total shareholders'/member's equity	40,277	77,266	76,253	89,190	(231,911)	51,075
Total liabilities and shareholders'/member's equity	$ 66,523	$ 77,917	$ 89,717	$ 148,254	$ (233,514)	$ 148,897

EXHIBIT A

CHARTER COMMUNICATIONS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)
(dollars in millions, except per share amounts and where indicated)

Charter Communications, Inc. and Subsidiaries
Condensed Consolidating Balance Sheets
As of December 31, 2015

	Non-Guarantor Subsidiaries			Guarantor Subsidiaries			
	Charter	Intermediate Holding Companies	Safari Escrow Entities	CCO Holdings	Charter Operating and Restricted Subsidiaries	Eliminations	Charter Consolidated
ASSETS							
CURRENT ASSETS:							
Cash and cash equivalents	$ —	$ —	$ —	$ —	$ 5	$ —	$ 5
Accounts receivable, net	8	7	—	—	264	—	279
Receivables from related party	51	297	—	14	—	(362)	—
Prepaid expenses and other current assets	—	6	—	—	55	—	61
Total current assets	59	310	—	14	324	(362)	345
RESTRICTED CASH AND CASH EQUIVALENTS	—	—	22,264	—	—	—	22,264
INVESTMENT IN CABLE PROPERTIES:							
Property, plant and equipment, net	—	28	—	—	8,317	—	8,345
Franchises	—	—	—	—	6,006	—	6,006
Customer relationships, net	—	—	—	—	856	—	856
Goodwill	—	—	—	—	1,168	—	1,168
Total investment in cable properties, net	—	28	—	—	16,347	—	16,375
INVESTMENT IN SUBSIDIARIES	1,468	816	—	11,303	—	(13,587)	—
LOANS RECEIVABLE – RELATED PARTY	—	333	—	613	563	(1,509)	—
OTHER NONCURRENT ASSETS	—	216	—	—	116	—	332
Total assets	$ 1,527	$ 1,703	$ 22,264	$ 11,930	$ 17,350	$ (15,458)	$ 39,316
LIABILITIES AND SHAREHOLDERS'/MEMBER'S EQUITY (DEFICIT)							
CURRENT LIABILITIES:							
Accounts payable and accrued liabilities	$ 11	$ 203	$ 282	$ 165	$ 1,311	$ —	$ 1,972
Payables to related party	—	—	17	—	345	(362)	—
Total current liabilities	11	203	299	165	1,656	(362)	1,972
LONG-TERM DEBT	—	—	21,778	10,443	3,502	—	35,723
LOANS PAYABLE – RELATED PARTY	—	—	693	—	816	(1,509)	—
DEFERRED INCOME TAXES	1,562	—	—	—	28	—	1,590
OTHER LONG-TERM LIABILITIES	—	32	—	—	45	—	77
SHAREHOLDERS'/MEMBER'S EQUITY (DEFICIT)	(46)	1,468	(506)	1,322	11,303	(13,587)	(46)
Total liabilities and shareholders'/member's equity	$ 1,527	$ 1,703	$ 22,264	$ 11,930	$ 17,350	$ (15,458)	$ 39,316

CHARTER COMMUNICATIONS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)
(dollars in millions, except per share amounts and where indicated)

Charter Communications, Inc. and Subsidiaries
Condensed Consolidating Statements of Operations
For the nine months ended September 30, 2016

	Non-Guarantor Subsidiaries			Guarantor Subsidiaries			
	Charter	Intermediate Holding Companies	Safari Escrow Entities	CCO Holdings	Charter Operating and Restricted Subsidiaries	Eliminations	Charter Consolidated
REVENUES	$ 231	$ 797	$ —	$ —	$ 18,728	$ (1,028)	$ 18,728
COSTS AND EXPENSES:							
Operating costs and expenses (exclusive of items shown separately below)	231	781	—	—	12,173	(1,028)	12,157
Depreciation and amortization	—	3	—	—	4,409	—	4,412
Other operating (income) expenses, net	262	1	—	—	(20)	—	243
	493	785	—	—	16,562	(1,028)	16,812
Income from operations	(262)	12	—	—	2,166	—	1,916
OTHER INCOME (EXPENSES):							
Interest income (expense), net	—	10	(390)	(539)	(852)	—	(1,771)
Loss on extinguishment of debt	—	—	—	(110)	—	—	(110)
Gain on financial instruments, net	—	—	—	—	16	—	16
Other expense, net	—	(8)	—	—	(2)	—	(10)
Equity in income of subsidiaries	188	288	—	1,327	—	(1,803)	—
	188	290	(390)	678	(838)	(1,803)	(1,875)
Income (loss) before income taxes	(74)	302	(390)	678	1,328	(1,803)	41
INCOME TAX BENEFIT (EXPENSE)	3,142	(7)	—	—	—	—	3,135
Consolidated net income (loss)	3,068	295	(390)	678	1,328	(1,803)	3,176
Less: Net income attributable to noncontrolling interests	—	(107)	—	—	(1)	—	(108)
Net income (loss)	$ 3,068	$ 188	$ (390)	$ 678	$ 1,327	$ (1,803)	$ 3,068

Charter Communications, Inc. and Subsidiaries
Condensed Consolidating Statements of Operations
For the nine months ended September 30, 2015

	Non-Guarantor Subsidiaries			Guarantor Subsidiaries				
	Charter	Intermediate Holding Companies	Safari Escrow Entities	CCO Holdings	Charter Operating and Restricted Subsidiaries	Unrestricted Subsidiary	Eliminations	Charter Consolidated
REVENUES	$ 17	$ 216	$ —	$ —	$ 7,242	$ —	$ (233)	$ 7,242
COSTS AND EXPENSES:								
Operating costs and expenses (exclusive of items shown separately below)	17	216	—	—	4,802	—	(233)	4,802
Depreciation and amortization	—	—	—	—	1,580	—	—	1,580
Other operating expenses, net	—	—	—	—	69	—	—	69
	17	216	—	—	6,451	—	(233)	6,451
Income from operations	—	—	—	—	791	—	—	791
OTHER INCOME (EXPENSES):								
Interest income (expense), net	—	5	(228)	(487)	(114)	(47)	—	(871)
Loss on extinguishment of debt	—	—	(2)	(123)	—	(3)	—	(128)
Loss on financial instruments, net	—	—	—	—	(10)	—	—	(10)
Other expense, net	—	(3)	—	—	—	—	—	(3)
Equity in income (loss) of subsidiaries	(9)	(45)	—	795	(50)	—	(691)	—
	(9)	(43)	(230)	185	(174)	(50)	(691)	(1,012)
Income (loss) before income taxes	(9)	(43)	(230)	185	617	(50)	(691)	(221)
INCOME TAX BENEFIT (EXPENSE)	(140)	—	—	—	212	—	—	72
Consolidated net income (loss)	(149)	(43)	(230)	185	829	(50)	(691)	(149)
Less: Net income (loss) attributable to noncontrolling interests	—	34	—	—	(34)	—	—	—
Net income (loss)	$ (149)	$ (9)	$ (230)	$ 185	$ 795	$ (50)	$ (691)	$ (149)

Charter Communications, Inc. and Subsidiaries
Condensed Consolidating Statements of Comprehensive Income (Loss)
For the nine months ended September 30, 2016

	Non-Guarantor Subsidiaries			Guarantor Subsidiaries			
	Charter	Intermediate Holding Companies	Safari Escrow Entities	CCO Holdings	Charter Operating and Restricted Subsidiaries	Eliminations	Charter Consolidated
Consolidated net income (loss)	$ 3,068	$ 295	$ (390)	$ 678	$ 1,328	$ (1,803)	$ 3,176
Net impact of interest rate derivative instruments, net of tax	6	6	—	6	6	(18)	6
Foreign currency translation adjustment	(1)	(1)	—	(1)	(1)	3	(1)
Consolidated comprehensive income (loss)	3,073	300	(390)	683	1,333	(1,818)	3,181
Less: Net income attributable to noncontrolling interests	—	(107)	—	—	(1)	—	(108)
Comprehensive income (loss)	$ 3,073	$ 193	$ (390)	$ 683	$ 1,332	$ (1,818)	$ 3,073

Charter Communications, Inc. and Subsidiaries
Condensed Consolidating Statements of Comprehensive Income (Loss)
For the nine months ended September 30, 2015

	Non-Guarantor Subsidiaries			Guarantor Subsidiaries				
	Charter	Intermediate Holding Companies	Safari Escrow Entities	CCO Holdings	Charter Operating and Restricted Subsidiaries	Unrestricted Subsidiary	Eliminations	Charter Consolidated
Consolidated net income (loss)	$ (149)	$ (43)	$ (230)	$ 185	$ 829	$ (50)	$ (691)	$ (149)
Net impact of interest rate derivative instruments, net of tax	7	7	7	7	7	—	(28)	7
Consolidated comprehensive income (loss)	$ (142)	$ (36)	$ (223)	$ 192	$ 836	$ (50)	$ (719)	$ (142)
Less: Net income (loss) attributable to noncontrolling interests	—	34	—	—	(34)	—	—	—
Comprehensive income (loss)	$ (142)	$ (2)	$ (223)	$ 192	$ 802	$ (50)	$ (719)	$ (142)

CHARTER COMMUNICATIONS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)
(dollars in millions, except per share amounts and where indicated)

Charter Communications, Inc. and Subsidiaries
Condensed Consolidating Statements of Cash Flows
For the nine months ended September 30, 2016

	Non-Guarantor Subsidiaries			Guarantor Subsidiaries			
	Charter	Intermediate Holding Companies	Safari Escrow Entities	CCO Holdings	Charter Operating and Restricted Subsidiaries	Eliminations	Charter Consolidated
NET CASH FLOWS FROM OPERATING ACTIVITIES	$ (233)	$ (27)	$ (463)	$ (533)	$ 6,071	$ —	$ 4,815
CASH FLOWS FROM INVESTING ACTIVITIES:							
Purchases of property, plant and equipment	—	—	—	—	(3,437)	—	(3,437)
Change in accrued expenses related to capital expenditures	—	—	—	—	86	—	86
Purchases of cable systems, net of cash assumed	(26,781)	(2,022)	—	—	(7)	—	(28,810)
Contributions to subsidiaries	(996)	(478)	—	(437)	—	1,911	—
Distributions from subsidiaries	23,417	25,437	—	3,455	—	(52,309)	—
Change in restricted cash and cash equivalents	—	—	22,264	—	—	—	22,264
Other, net	—	—	—	—	(8)	—	(8)
Net cash flows from investing activities	(4,360)	22,937	22,264	3,018	(3,366)	(50,398)	(9,905)
CASH FLOWS FROM FINANCING ACTIVITIES:							
Borrowings of long-term debt	—	—	—	3,201	2,796	—	5,997
Repayments of long-term debt	—	—	—	(2,937)	(1,183)	—	(4,120)
Borrowings (repayments) loans payable - related parties	—	(300)	553	(71)	(182)	—	—
Payments for debt issuance costs	—	—	—	(73)	(210)	—	(283)
Issuance of equity	5,000	—	—	—	—	—	5,000
Purchase of treasury stock	(448)	—	—	—	—	—	(448)
Payment of preferred dividend to noncontrolling interest	—	(55)	—	—	—	—	(55)
Proceeds from exercise of stock options	71	—	—	—	—	—	71
Proceeds from termination of interest rate derivatives	—	—	—	—	88	—	88
Contributions from parent	—	996	—	478	437	(1,911)	—
Distributions to parent	—	(23,417)	(22,353)	(3,084)	(3,455)	52,309	—
Other, net	—	5	(1)	1	(5)	—	—
Net cash flows from financing activities	4,623	(22,771)	(21,801)	(2,485)	(1,714)	50,398	6,250
NET INCREASE IN CASH AND CASH EQUIVALENTS	30	139	—	—	991	—	1,160
CASH AND CASH EQUIVALENTS, beginning of period	—	—	—	—	5	—	5
CASH AND CASH EQUIVALENTS, end of period	$ 30	$ 139	$ —	$ —	$ 996	$ —	$ 1,165

Charter Communications, Inc. and Subsidiaries
Condensed Consolidating Statements of Cash Flows
For the nine months ended September 30, 2015

	Non-Guarantor Subsidiaries			Guarantor Subsidiaries				
	Charter	Intermediate Holding Companies	Safari Escrow Entities	CCO Holdings	Charter Operating and Restricted Subsidiaries	Unrestricted Subsidiary	Eliminations	Charter Consolidated
NET CASH FLOWS FROM OPERATING ACTIVITIES	$ —	$ (5)	$ (68)	$ (510)	$ 2,386	$ (55)	$ —	$ 1,748
CASH FLOWS FROM INVESTING ACTIVITIES:								
Purchases of property, plant and equipment	—	—	—	—	(1,292)	—	—	(1,292)
Change in accrued expenses related to capital expenditures	—	—	—	—	11	—	—	11
Contribution to subsidiary	(20)	(90)	—	(46)	(24)	—	180	—
Distributions from subsidiaries	19	330	—	521	—	—	(870)	—
Change in restricted cash and cash equivalents	—	—	(16,029)	—	—	3,514	—	(12,515)
Other, net	—	(54)	—	—	(15)	—	—	(69)
Net cash flows from investing activities	(1)	186	(16,029)	475	(1,320)	3,514	(690)	(13,865)
CASH FLOWS FROM FINANCING ACTIVITIES:								
Borrowings of long-term debt	—	—	19,291	2,700	1,071	—	—	23,062
Repayments of long-term debt	—	—	(3,500)	(2,599)	(1,329)	(3,483)	—	(10,911)
Borrowings (payments) loans payable - related parties	—	—	317	16	(333)	—	—	—
Payments for debt issuance costs	—	—	(11)	(24)	—	—	—	(35)
Purchase of treasury stock	(24)	—	—	—	—	—	—	(24)
Proceeds from exercise of stock options	22	—	—	—	—	—	—	22
Contributions from parent	—	95	—	15	46	24	(180)	—
Distributions to parent	—	(276)	—	(73)	(521)	—	870	—
Net cash flows from financing activities	(2)	(181)	16,097	35	(1,066)	(3,459)	690	12,114
NET DECREASE IN CASH AND CASH EQUIVALENTS	(3)	—	—	—	—	—	—	(3)
CASH AND CASH EQUIVALENTS, beginning of period	3	—	—	—	—	—	—	3
CASH AND CASH EQUIVALENTS, end of period	$ —	$ —	$ —	$ —	$ —	$ —	$ —	$ —

21. Recently Issued Accounting Standards

In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2014-09, *Revenue from Contracts with Customers* ("ASU 2014-09"), which is a comprehensive revenue recognition standard that will supersede nearly all existing revenue recognition guidance under U.S. GAAP. The new standard provides a single principles-based, five-step model to be applied to all contracts with customers, which steps are to (1) identify the contract(s) with the customer, (2) identify the performance obligations in the contract, (3) determine the transaction price, (4) allocate the transaction price to the performance obligations in the contract and (5) recognize revenue when each performance obligation is satisfied. More specifically, revenue will be recognized when promised goods or services are transferred to the customer in an amount that reflects the consideration expected in exchange for those goods or services. ASU 2014-09 will be effective, reflecting the one-year deferral, for interim and annual periods beginning after December 15, 2017 (January 1, 2018 for the Company). Early adoption of the standard is permitted but not before the original effective date. Companies can transition to the standard either retrospectively or as a cumulative-effect adjustment as of the date of adoption. The Company is currently in the process of evaluating the impact that the adoption of ASU 2014-09 will have on its consolidated financial statements and the selected method of transition to the new standard.

In April 2015, the FASB issued ASU No. 2015-05, *Customer's Accounting for Fees Paid in a Cloud Computing Arrangement* ("ASU 2015-05"), which provides guidance in determining whether fees for purchasing cloud computing services (or hosted software solutions) are considered internal-use software or should be considered a service contract. The cloud computing agreement that includes a software license should be accounted for in the same manner as internal-use software if customer has contractual right to take possession of the software during the hosting period without significant penalty and it is feasible to either run the software on customer's hardware or contract with another vendor to host the software. Arrangements that don't meet the requirements for internal-use software should be accounted for as a service contract. ASU 2015-05 was effective for interim and annual periods beginning after December 15, 2015 (January 1, 2016 for the Company). The adoption of ASU 2015-05 did not have a material impact on the Company's financial statements.

In February 2016, the FASB issued ASU No. 2016-02, *Leases* ("ASU 2016-02"), which requires lessees to recognize almost all leases on their balance sheet as a right-of-use asset and a lease liability. Lessees are allowed to account for short-term leases (i.e., leases with a term of 12 months or less) off-balance sheet, consistent with current operating lease accounting. For income statement purposes, the FASB retained a dual model, requiring leases to be classified as either operating or finance. Classification will be based on criteria that are largely similar to those applied in current lease accounting, but without explicit bright lines. ASU 2016-02 will be effective for interim and annual periods beginning after December 15, 2018 (January 1, 2019 for the Company). Early adoption is permitted. The new standard requires a modified retrospective transition through a cumulative-effect adjustment as of the beginning of the earliest period presented in the financial statements. The Company is currently in the process of evaluating the impact that the adoption of ASU 2016-02 will have on its consolidated financial statements.

In March 2016, the FASB issued ASU No. 2016-09, *Improvements to Employee Share-Based Payment Accounting* ("ASU 2016-09"), which includes multiple provisions intended to simplify various aspects of the accounting for share-based payments. The new standard (1) requires all excess tax benefits and deficiencies to be recognized as income tax expense or benefit in the income statement in the period in which they occur regardless of whether the benefit reduces taxes payable in the current period, (2) requires classification of excess tax benefits as an operating activity on the statements of cash flows, (3) allows an entity to make an entity-wide accounting policy election to either estimate the number of awards that are expected to vest or account for forfeitures when they occur and (4) causes the threshold under which employee share-based awards partially settled in cash can qualify for equity classification to increase to the maximum statutory tax rates in the applicable jurisdiction. ASU 2016-09 will be effective for interim and annual periods after December 15, 2016 (January 1, 2017 for the Company). Early adoption of the standard is permitted but requires adoption of all provisions included in the amendment in the same period. The new standard generally requires a modified retrospective transition through a cumulative-effect adjustment as of the beginning of the period of adoption, with certain provisions requiring either a prospective or retrospective transition. The Company is currently in the process of evaluating the impact that the adoption of ASU 2016-09 will have on its consolidated financial statements.

In August 2016, the FASB issued ASU No. 2016-15, *Classification of Certain Cash Receipts and Cash Payments* ("ASU 2016-15"), which clarifies how entities should classify cash receipts and cash payments related to eight specific cash flow matters on the statement of cash flows, with the objective of reducing existing diversity in practice. ASU 2016-15 will be effective for interim and annual periods beginning after December 15, 2017 (January 1, 2018 for the Company). Early adoption is permitted. The

Company is currently in the process of evaluating the impact that the adoption of ASU 2016-15 will have on its consolidated financial statements.

Item 2. ***Management's Discussion and Analysis of Financial Condition and Results of Operations.***

General

Charter Communications, Inc. (together with its controlled subsidiaries, "Charter") is the second largest cable operator in the United States and a leading broadband communications company providing video, Internet and voice services with approximately 25.9 million residential and commercial customers at September 30, 2016. We also sell video and online advertising inventory to local, regional and national advertising customers and networking and enterprise-class, cloud-enabled hosting, managed applications and transport services to business customers and own and operate regional sports networks and local sports, news and lifestyle channels. Our residential services also include security and home management services.

Charter is a holding company whose principal asset is a controlling equity interest in Charter Communications Holdings, LLC ("Charter Holdings"), an indirect owner of Charter Communications Operating, LLC ("Charter Operating") under which all of the operations reside. All significant intercompany accounts and transactions among consolidated entities have been eliminated.

TWC Transaction

On May 18, 2016, the transactions contemplated by the Agreement and Plan of Mergers dated as of May 23, 2015 (the "Merger Agreement"), by and among Time Warner Cable Inc. ("Legacy TWC"), Charter Communications, Inc. prior to the closing of the Merger Agreement ("Legacy Charter"), CCH I, LLC, previously a wholly owned subsidiary of Legacy Charter ("New Charter") and certain other subsidiaries of New Charter were completed (the "TWC Transaction," and together with the Bright House Transaction described below, the "Transactions"). As a result of the TWC Transaction, New Charter became the new public parent company that holds the operations of the combined companies and was renamed Charter Communications, Inc.

Pursuant to the terms of the Merger Agreement, upon consummation of the TWC Transaction, each outstanding share of Legacy TWC common stock (other than Legacy TWC common stock held by Liberty Broadband Corporation ("Liberty Broadband") and Liberty Interactive Corporation ("Liberty Interactive" and, collectively, the "Liberty Parties")), was converted into the right to receive, at the option of each such holder of Legacy TWC common stock, either (a) $100 in cash and Charter Class A common stock equivalent to 0.5409 shares of Legacy Charter Class A common stock (the "Option A Consideration") or (b) $115 in cash and Charter Class A common stock equivalent to 0.4562 shares of Legacy Charter Class A common stock (the "Option B Consideration"). The actual number of shares of Charter Class A common stock that Legacy TWC stockholders received, excluding the Liberty Parties, was calculated by multiplying the exchange ratios of 0.5409 or 0.4562 specified above by 0.9042 (the "Parent Merger Exchange Ratio"), which was also the exchange ratio that was used to determine the number of shares of Charter Class A common stock that Legacy Charter stockholders received per share of Legacy Charter Class A common stock. Such exchange ratio did not impact the aggregate value represented by the shares of Charter Class A common stock issued in the TWC Transaction; however, it did impact the actual number of shares issued in the TWC Transaction.

Out of approximately 277 million shares of TWC common stock outstanding at the closing of the TWC Transaction, excluding TWC common stock held by the Liberty Parties, approximately 274 million shares were converted into the right to receive the Option A Consideration and approximately 3 million shares were converted into the right to receive the Option B Consideration. The Liberty Parties received approximately one share of Charter Class A common stock for each share of Legacy TWC common stock they owned (equivalent to 1.106 shares of Legacy Charter Class A common stock multiplied by the Parent Merger Exchange Ratio).

As of the date of the Transactions, the total value of the TWC Transaction was approximately $85 billion, including cash, equity and Legacy TWC assumed debt. The purchase price also includes an estimated pre-combination vesting period fair value of $514 million for Legacy TWC equity awards converted into Charter awards upon closing of the TWC Transaction ("Converted TWC Awards") and $69 million of cash paid to former Legacy TWC employees and non-employee directors who held equity awards, whether vested or not vested.

Bright House Transaction

Also, on May 18, 2016, Legacy Charter and Advance/Newhouse Partnership ("A/N"), the former parent of Bright House Networks, LLC ("Bright House"), completed their previously announced transaction, pursuant to a definitive Contribution Agreement (the "Contribution Agreement"), under which Charter acquired Bright House (the "Bright House Transaction"). Pursuant to the Bright House Transaction, Charter became the owner of the membership interests in Bright House and the other assets primarily related to Bright House (other than certain excluded assets and liabilities and non-operating cash). As of the date of acquisition, the purchase price totaled approximately $12.2 billion consisting of (a) $2 billion in cash, (b) 25 million convertible preferred units

of Charter Holdings with a face amount of $2.5 billion that pay a 6% annual preferential dividend, (c) approximately 31.0 million common units of Charter Holdings that are exchangeable into Charter Class A common stock on a one-for-one basis and (d) one share of Charter Class B common stock.

Liberty Transaction

In connection with the TWC Transaction, Legacy Charter and Liberty Broadband completed their previously announced transactions pursuant to their investment agreement, in which Liberty Broadband purchased for cash approximately 22.0 million shares of Charter Class A common stock valued at $4.3 billion at the closing of the TWC Transaction to partially finance the cash portion of the TWC Transaction consideration. In connection with the Bright House Transaction, Liberty Broadband purchased approximately 3.7 million shares of Charter Class A common stock valued at $700 million at the closing of the Bright House Transaction.

Financing for the Transactions

Charter partially financed the cash portion of the purchase price of the Transactions with additional indebtedness and cash on hand. In 2015, Charter issued $15.5 billion aggregate principal amount of CCO Safari II, LLC ("CCO Safari II") senior secured notes, $3.8 billion aggregate principal amount of CCO Safari III, LLC ("CCO Safari III") senior secured bank loans and $2.5 billion aggregate principal amount of CCOH Safari, LLC ("CCOH Safari") senior unsecured notes. The net proceeds were initially deposited into an escrow account. Upon closing of the TWC Transaction and release of the proceeds, the CCOH Safari notes became obligations of CCO Holdings, LLC ("CCO Holdings"), an indirect wholly-owned subsidiary of Charter Holdings, and CCO Holdings Capital Corp. ("CCO Holdings Capital"), and the CCO Safari II notes and CCO Safari III credit facilities became obligations of Charter Operating and Charter Communications Operating Capital Corp. CCOH Safari merged into CCO Holdings and CCO Safari II and CCO Safari III merged into Charter Operating. In connection with the closing of the Bright House Transaction, Charter Operating closed on a $2.6 billion aggregate principal amount term loan A facility.

Transaction-Related Commitments

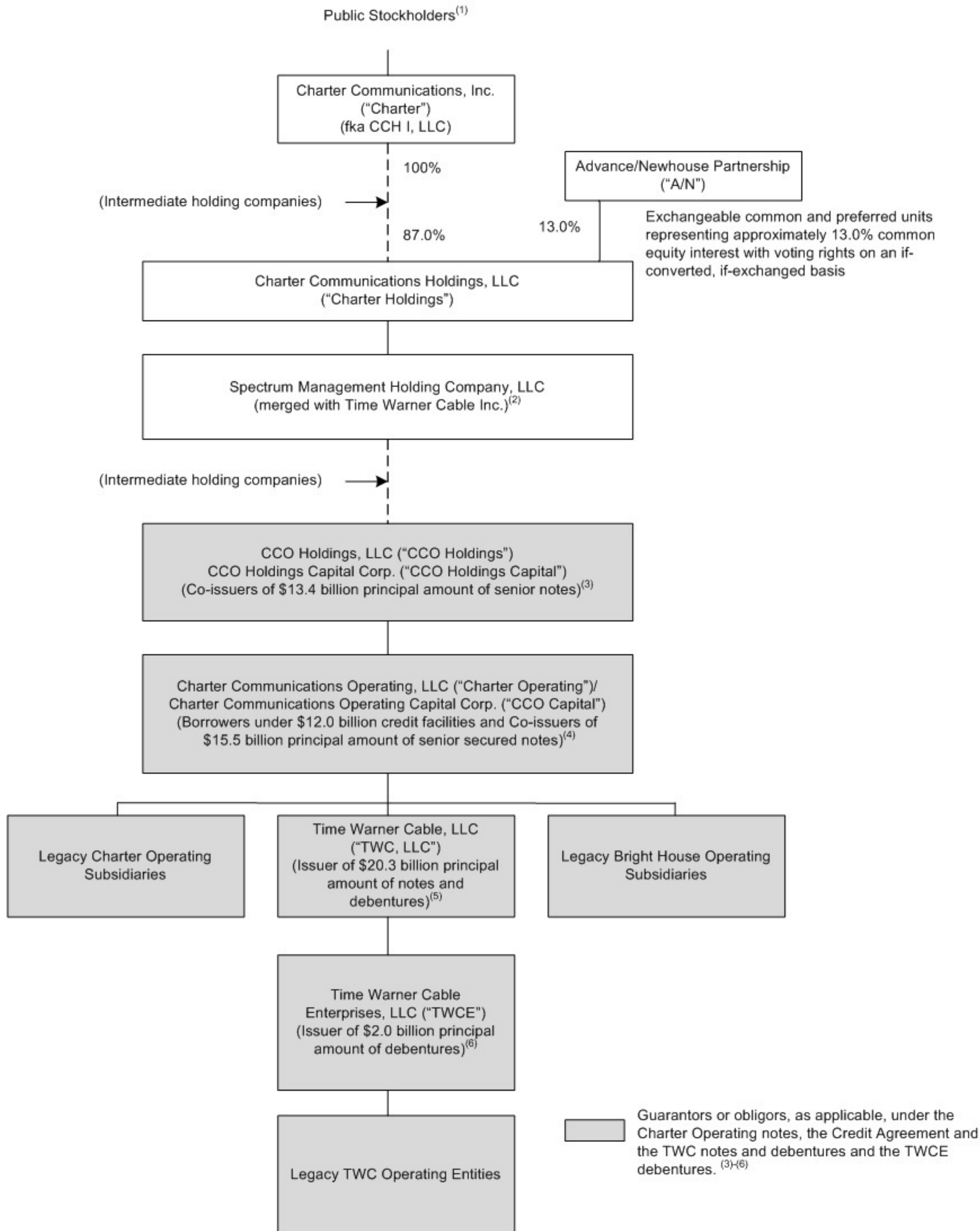
The Federal Communications Commission (the "FCC") order approving the Transactions contained certain conditions including build out of an additional two million locations with access to a high-speed connection within five years. At least one million of those connections must be in competition with another high-speed broadband provider in the market served. The FCC order also provides that Charter will not be permitted to charge usage-based prices or impose data caps and will be prohibited from charging interconnection fees for seven years, although the FCC sets forth a process in which the FCC could eliminate the conditions after five years.

Under the terms of the order with the Department of Justice ("DOJ"), Charter is prohibited from entering into or enforcing any agreement with a programmer that forbids, limits or creates incentives to limit the programmer's provision of content to one or more on-line video distributors ("OVDs"). The settlement further provides that Charter will not be able to avail itself of other distributors' most favored nation ("MFN") provisions if they are inconsistent with this prohibition. The settlement also prohibits Charter from retaliating against programmers for licensing to OVDs. These DOJ conditions are in force for seven years, although Charter may petition the DOJ to eliminate the conditions after five years.

EXHIBIT A

Corporate Entity Structure

The chart below sets forth our entity structure and that of our direct and indirect subsidiaries. This chart does not include all of our affiliates and subsidiaries and, in some cases, we have combined separate entities for presentation purposes. The equity ownership percentages shown below are approximations. Indebtedness amounts shown below are principal amounts as of September 30, 2016. See Note 7 to the accompanying consolidated financial statements which also includes the accreted values of the indebtedness described below.



(1) As of September 30, 2016, Liberty Broadband beneficially owned approximately 17.4% of Charter's Class A common stock and A/N beneficially owned approximately 13.0% of Charter's Class A common stock, in each case assuming the exchange of the membership interests held by A/N for Charter's Class A common stock.

(2) In the Transactions, Legacy TWC transferred substantially all of its assets to TWC, LLC and merged with and into Spectrum Management Holding Company, LLC (formerly named Nina Company II, LLC) ("Spectrum Management") with Spectrum Management as the surviving entity. Spectrum Management was the successor to the SEC reporting obligations of Legacy TWC (which have since been terminated).

(3) In connection with the Transactions, on May 18, 2016, the proceeds of $2.5 billion principal amount of senior notes previously issued by CCOH Safari and held in escrow were released from escrow, and CCOH Safari merged with and into CCO Holdings, which, among other things, assumed the obligations under these debt securities and agreed to guarantee, along with Time Warner Cable, LLC ("TWC, LLC"), Time Warner Cable Enterprises LLC ("TWCE") and substantially all of the operating subsidiaries of Charter Operating (collectively, the "Subsidiary Guarantors"), the Charter Operating notes, the TWC, LLC and TWCE debt securities and the Charter Operating credit facilities.

(4) In connection with the Transactions, on May 18, 2016, (a) the proceeds of $15.5 billion principal amount of senior notes previously issued by CCO Safari II and held in escrow were released from escrow, and CCO Safari II merged with and into Charter Operating, which, among other things, assumed these debt obligations, (b) the $3.8 billion credit facility of CCO Safari III was issued, and CCO Safari III merged with and into Charter Operating, which, among other things, assumed the obligations under this credit facility and (c) Charter Operating agreed to guarantee, along with the Subsidiary Guarantors the TWC, LLC senior notes and debentures and the TWCE senior debentures. As of September 30, 2016, the Charter Operating credit facilities were comprised of $2.6 billion aggregate principal amount term loan A facility, $1.4 billion aggregate principal amount term loan E facility, $1.2 billion aggregate principal amount term loan F facility, $995 million aggregate principal amount term loan H facility and $2.8 billion aggregate principal amount term loan I facility. Charter Operating also has availability under its revolving credit facility of approximately $2.8 billion as of September 30, 2016.

(5) In connection with the TWC Transaction, Legacy TWC transferred substantially all of its assets to TWC, LLC (f/k/a TWC NewCo LLC), and, among other things, TWC, LLC assumed all the obligations under $20.3 billion principal amount of notes and debentures previously issued by Legacy TWC, and agreed to guarantee the Charter Operating and TWCE notes and debentures and the Charter Operating credit agreement.

(6) In connection with the Transactions, TWCE agreed to guarantee the Charter Operating and TWC, LLC notes and debentures and the Charter Operating credit agreement.

Overview

Since 2012, Legacy Charter has actively invested in its network and operations and improved the quality and value of the products and packages that Legacy Charter offered. Through the roll-out of Spectrum pricing and packaging we have simplified our offers and improved our packaging of products, delivering more value to new and existing customers. Further, through the transition of our Legacy Charter markets to our all-digital platform, we increased our offerings to more than 200 HD channels in most of the Legacy Charter markets and offered Internet speeds of at least 60Mbps, among other benefits. We believe that this product set combined with improved customer service, as we insource our workforce in our call centers and in our field operations, has led to lower customer churn and longer customer lifetimes.

As a result of the Transactions, quarterly revenues increased by over $7 billion year over year. We also saw an increase in expenses related to our increased scale. In September 2016, we began launching Spectrum pricing and packaging to Legacy TWC markets and we expect that by mid 2017, we will offer Spectrum pricing and packaging in all Legacy TWC and Legacy Bright House markets. In 2017, we intend to begin converting the remaining Legacy TWC and Legacy Bright House analog markets to an all-digital platform and we expect to complete this initiative by the end of 2018. By the end of 2016, we expect that most of our corporate organization, as well as our marketing, sales and product development departments, will be centralized. Field operations will be managed through eleven regional areas, each designed to represent a combination of designated marketing areas and managed with largely the same set of field employees that were with the three legacy companies prior to completion of the Transactions. Over a multi-year period, Legacy TWC and Legacy Bright House customer care centers will migrate to Charter's model of using virtualized, U.S.-based in-house call centers. We will focus on deploying superior products and service with minimal service disruptions as we integrate our information technology and network operations. We expect customer and financial results to trend similar to Legacy Charter following the implementation of the Legacy Charter operating strategies across the

Legacy TWC and Legacy Bright House markets. As a result of implementing our operating strategy at Legacy TWC and Legacy Bright House, we cannot be certain that we will be able to grow revenues or maintain our margins at recent historical rates.

Our most significant competitors are direct broadcast satellite providers and certain telephone companies that offer services that provide features and functions similar to our Internet, video and voice services, including in some cases wireless services. These services are frequently offered in bundles similar to ours. In addition, some consumers have chosen to receive video over the Internet rather than through pay television services including from us.

The Company realized revenue, Adjusted EBITDA and income from operations during the periods presented on an actual basis and pro forma basis, assuming the Transactions occurred as of January 1, 2015, as follows (in millions).

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2016	2015	% Growth	2016	2015	% Growth
Actual						
Revenues	$ 10,037	$ 2,450	309.6%	$ 18,728	$ 7,242	158.6%
Adjusted EBITDA	$ 3,636	$ 850	328.3%	$ 6,739	$ 2,498	169.8%
Income from operations	$ 924	$ 273	240.3%	$ 1,916	$ 791	142.4%
Pro Forma						
Revenues	$ 10,037	$ 9,342	7.4%	$ 29,748	$ 27,813	7.0%
Adjusted EBITDA	$ 3,636	$ 3,175	14.5%	$ 10,611	$ 9,586	10.7%
Income from operations	$ 924	$ 763	21.1%	$ 3,362	$ 2,428	38.5%

Adjusted EBITDA is defined as consolidated net income (loss) plus net interest expense, income tax expense, depreciation and amortization, stock compensation expense, loss on extinguishment of debt, (gain) loss on financial instruments, net, other expense, net and other operating expenses, such as merger and restructuring costs, other pension benefits, special charges and gain (loss) on sale or retirement of assets. See "—Use of Adjusted EBITDA and Free Cash Flow" for further information on Adjusted EBITDA and free cash flow. Growth in total revenue, Adjusted EBITDA and income from operations was primarily due to the Transactions.

On a pro forma basis, assuming the Transactions occurred as of January 1, 2015, total revenue growth was primarily due to growth in our Internet and commercial businesses. On a pro forma basis, Adjusted EBITDA growth was primarily due to an increase in residential and commercial revenues offset by increases in programming costs and other operating costs. In addition to the factors discussed above, income from operations on a pro forma basis was affected by increases in depreciation and amortization, merger and restructuring costs and stock compensation expense.

We incurred the following costs in connection with the Transactions (in millions).

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
Operating expenses	$ 32	$ 12	$ 78	$ 50
Other operating expenses	$ 205	$ 19	$ 775	$ 51
Interest expense	$ —	$ 163	$ 390	$ 275
Capital expenditures	$ 109	$ 24	$ 273	$ 66

Amounts included in transition operating expenses and transition capital expenditures represent incremental costs incurred to integrate the Legacy TWC and Legacy Bright House operations and to bring the three companies' systems and processes into a uniform operating structure. Costs are incremental and would not be incurred absent the integration. Other operating expenses associated with the Transactions represent merger and restructuring costs and include advisory, legal and accounting fees, employee retention costs, employee termination costs and other exit costs. Interest expense associated with the Transactions represents interest incurred on the CCO Safari II, CCO Safari III and CCOH Safari notes issued in advance of the closing of the Transactions, the proceeds of which were held in escrow to finance the Transactions.

We have a history of net losses. Our net losses were principally attributable to insufficient revenue to cover the combination of operating expenses, interest expenses that we incur on our debt, depreciation expenses resulting from the capital investments we have made, and continue to make, in our cable properties, amortization expenses related to our customer relationship intangibles and higher non-cash income tax expense. We will incur significant increases in interest expense and depreciation and amortization as a result of the Transactions and will incur restructuring and transition costs for at least one to two years, and as a result, absent non-recurring impacts such as the reversal of the income tax valuation allowance in the second quarter of 2016, we may incur net losses in the future.

All customer statistics as of September 30, 2016 include operations of Legacy TWC, Legacy Bright House and Legacy Charter each of which is based on the legacy company's reporting methodology. Such methodologies differ and these differences may be material. Once statistical reporting is fully integrated, all prior periods will be recast to reflect a consistent methodology. The following table summarizes our customer statistics for video, Internet and voice as of September 30, 2016 and 2015 (in thousands except per customer data and footnotes).

	Approximate as of September 30,	
	2016 (a)	**2015 (a)**
Customer Relationships (b)		
Residential	24,551	6,202
Small and Medium Business	1,367	375
Total Customer Relationships	25,918	6,577
Residential Primary Service Units ("PSU")		
Video	16,887	4,293
Internet	21,017	5,112
Voice	10,288	2,551
	48,192	11,956
Monthly Residential Revenue per Residential Customer (c)	$ 109.69	$ 110.69
Small and Medium Business PSUs		
Video	388	104
Internet	1,185	331
Voice	751	208
	2,324	643
Monthly Small and Medium Business Revenue per Customer (d)	$ 214.64	$ 176.19
Enterprise PSUs (e)	93	28

After giving effect to the Transactions, September 30, 2015 residential and small and medium business customer relationships would have been 23,436,000 and 1,221,000, respectively, residential video, Internet and voice PSUs would have been 16,944,000, 19,416,000 and 9,655,000, respectively and small and medium business PSUs would have been 354,000, 1,045,000 and 643,000, respectively; Enterprise PSUs would have been 77,000.

(a) We calculate the aging of customer accounts based on the monthly billing cycle for each account. On that basis, as of September 30, 2016 and 2015, customers include approximately 200,900 and 36,800 customers, respectively, whose accounts were over 60 days past due, approximately 15,200 and 1,200 customers, respectively, whose accounts were over 90 days past due, and approximately 8,900 and 800 customers, respectively, whose accounts were over 120 days past due.

(b) Customer relationships include the number of customers that receive one or more levels of service, encompassing video, Internet and voice services, without regard to which service(s) such customers receive. Customers who reside in residential multiple dwelling units ("MDUs") and that are billed under bulk contracts are counted based on the number of billed units within each bulk MDU. Total customer relationships excludes enterprise customer relationships.

(c) Monthly residential revenue per residential customer is calculated as total residential video, Internet and voice quarterly revenue divided by three divided by average residential customer relationships during the respective quarter.

(d) Monthly small and medium business revenue per customer is calculated as total small and medium business quarterly revenue divided by three divided by average small and medium business customer relationships during the respective quarter.

(e) Enterprise PSUs represent the aggregate number of fiber service offerings counting each separate service offering as an individual PSU.

Critical Accounting Policies and Estimates

For a discussion of our critical accounting policies and the means by which we develop estimates therefore, see "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations" in our 2015 Annual Report on Form 10-K and "Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations" in our Quarterly Report on Form 10-Q for the three and six months ended June 30, 2016. There have been no material changes from the critical accounting policies described in our Form 10-K and Form 10-Q.

Results of Operations

We completed the Transactions on May 18, 2016 and have included the Legacy TWC and Legacy Bright House operating results since that date. In accordance with U.S. generally accepted accounting principles ("GAAP"), operating results from Legacy TWC and Legacy Bright House prior to the closing of the Transactions have been excluded. For purposes of management's discussion and analysis, we have given explanations of increases and decreases in our results of operations on an actual basis, as well as on a pro forma basis assuming the Transactions occurred as of January 1, 2015. Due to the size of the Transactions, we believe that providing a discussion of our results of operations on a pro forma basis provides management and investors a more meaningful perspective on our financial and operational performance and trends. The results of operations data on a pro forma basis are provided for illustrative purposes only and are based on available information and assumptions that we believe are reasonable and do not purport to represent what our actual consolidated results of operations would have been had the Transactions occurred as of January 1, 2015, nor are they necessarily indicative of future consolidated results of operations or consolidated financial position.

See Exhibit 99.1 in this Quarterly Report on Form 10-Q for the three and nine months ended September 30, 2016 for pro forma financial information for each quarter of 2015 and the first and second quarter of 2016.

The following table sets forth the consolidated statements of operations for the periods presented (dollars in millions, except per share data):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
Revenues	$ 10,037	$ 2,450	$ 18,728	$ 7,242
Costs and Expenses:				
Operating costs and expenses (exclusive of items shown separately below)	6,482	1,620	12,157	4,802
Depreciation and amortization	2,437	538	4,412	1,580
Other operating expenses, net	194	19	243	69
	9,113	2,177	16,812	6,451
Income from operations	924	273	1,916	791
Other Expenses:				
Interest expense, net	(724)	(353)	(1,771)	(871)
Loss on extinguishment of debt	—	—	(110)	(128)
Gain (loss) on financial instruments, net	71	(5)	16	(10)
Other expense, net	(5)	(3)	(10)	(3)
	(658)	(361)	(1,875)	(1,012)
Income (loss) before income taxes	266	(88)	41	(221)
Income tax benefit (expense)	(16)	142	3,135	72
Consolidated net income (loss)	250	54	3,176	(149)
Less: Net income attributable to noncontrolling interests	(61)	—	(108)	—
Net income (loss) attributable to Charter shareholders	$ 189	$ 54	$ 3,068	$ (149)
EARNINGS (LOSS) PER COMMON SHARE ATTRIBUTABLE TO CHARTER SHAREHOLDERS:				
Basic	$ 0.70	$ 0.54	$ 16.52	$ (1.48)
Diluted	$ 0.69	$ 0.53	$ 15.23	$ (1.48)
Weighted average common shares outstanding, basic	271,263,259	101,205,400	185,706,106	101,080,587
Weighted average common shares outstanding, diluted	275,373,202	102,481,924	208,460,148	101,080,587

Revenues. Total revenues grew $7.6 billion or 310% for the three months ended September 30, 2016 as compared to the three months ended September 30, 2015, and grew $11.5 billion or 159% for the nine months ended September 30, 2016 as compared to the nine months ended September 30, 2015. Revenue growth primarily reflects the Transactions and increases in the number of residential Internet and triple play customers and in commercial business customers, growth in rates driven by higher equipment revenue and rate increases offset by a decrease in basic video customers. The Transactions increased revenues for three and nine months ended September 30, 2016 as compared to the three and nine months September 30, 2015 by approximately $7.4 billion and $11.0 billion, respectively. On a pro forma basis, assuming the Transactions occurred as of January 1, 2015, total revenue growth was 7% for both the three and nine months ended September 30, 2016 compared to the corresponding periods in 2015.

Revenues by service offering were as follows (dollars in millions; all percentages are calculated using whole numbers. Minor differences may exist due to rounding):

	Three Months Ended September 30,					
	Actual			Pro forma		
	2016	2015	% Change	2016	2015	% Change
Video	$ 4,094	$ 1,143	258%	$ 4,094	$ 3,973	3 %
Internet	3,206	762	321%	3,206	2,844	13 %
Voice	728	135	441%	728	707	3 %
Residential revenue	8,028	2,040	293%	8,028	7,524	7 %
Small and medium business	868	193	347%	868	767	13 %
Enterprise	508	93	453%	508	461	10 %
Commercial revenue	1,376	286	381%	1,376	1,228	12 %
Advertising sales	419	77	449%	419	374	12 %
Other	214	47	354%	214	216	(1)%
	$ 10,037	$ 2,450	310%	$ 10,037	$ 9,342	7 %

	Nine Months Ended September 30,					
	Actual			Pro forma		
	2016	2015	% Change	2016	2015	% Change
Video	$ 7,869	$ 3,420	130%	$ 12,291	$ 12,009	2 %
Internet	5,960	2,222	168%	9,376	8,371	12 %
Voice	1,286	404	219%	2,185	2,117	3 %
Residential revenue	15,115	6,046	150%	23,852	22,497	6 %
Small and medium business	1,590	565	181%	2,520	2,223	13 %
Enterprise	903	268	237%	1,500	1,339	12 %
Commercial revenue	2,493	833	199%	4,020	3,562	13 %
Advertising sales	728	222	229%	1,189	1,105	8 %
Other	392	141	178%	687	649	6 %
	$ 18,728	$ 7,242	159%	$ 29,748	$ 27,813	7 %

Video revenues consist primarily of revenues from basic and digital video services provided to our residential customers, as well as franchise fees, equipment rental and video installation revenue. Excluding the impacts of the Transactions, residential video customers increased by 51,000 from September 30, 2015 to September 30, 2016.

The increase in video revenues is attributable to the following (dollars in millions):

	Three months ended September 30, 2016 compared to three months ended September 30, 2015 Increase / (Decrease)	Nine months ended September 30, 2016 compared to nine months ended September 30, 2015 Increase / (Decrease)
Incremental video services, price adjustments and bundle revenue allocation	$ 24	$ 98
Increase in average basic video customers	13	24
Decrease in video on demand and pay-per-view	(2)	(19)
TWC Transaction	2,521	3,749
Bright House Transaction	395	597
	$ 2,951	$ 4,449

On a pro forma basis, assuming the Transactions occurred as of January 1, 2015, residential video customers decreased by 57,000 from September 30, 2015 to September 30, 2016 and the increase in video revenues is attributable to the following (dollars in millions):

	Three months ended September 30, 2016 compared to three months ended September 30, 2015 Increase / (Decrease)	Nine months ended September 30, 2016 compared to nine months ended September 30, 2015 Increase / (Decrease)
Incremental video services, price adjustments and bundle revenue allocation	$ 130	$ 375
Increase (decrease) in video on demand and pay-per-view	2	(61)
Decrease in average basic video customers	(11)	(32)
	$ 121	$ 282

Excluding the impacts of the Transactions, residential Internet customers grew by 467,000 customers from September 30, 2015 to September 30, 2016. The increase in Internet revenues from our residential customers is attributable to the following (dollars in millions):

	Three months ended September 30, 2016 compared to three months ended September 30, 2015 Increase / (Decrease)	Nine months ended September 30, 2016 compared to nine months ended September 30, 2015 Increase / (Decrease)
Increase in average residential Internet customers	$ 73	$ 213
Service level changes, price adjustments and bundle revenue allocation	14	50
TWC Transaction	2,017	2,973
Bright House Transaction	340	502
	$ 2,444	$ 3,738

On a pro forma basis, assuming the Transactions occurred as of January 1, 2015, residential Internet customers increased by 1,601,000 from September 30, 2015 to September 30, 2016 and the increase in Internet revenues is attributable to the following (dollars in millions):

	Three months ended September 30, 2016 compared to three months ended September 30, 2015 Increase / (Decrease)	Nine months ended September 30, 2016 compared to nine months ended September 30, 2015 Increase / (Decrease)
Increase in average residential Internet customers	$ 248	$ 719
Service level changes, price adjustments and bundle revenue allocation	114	286
	$ 362	$ 1,005

Excluding the impacts of the Transactions, residential voice customers grew by 114,000 customers from September 30, 2015 to September 30, 2016. The increase in voice revenues from our residential customers is attributable to the following (dollars in millions):

	Three months ended September 30, 2016 compared to three months ended September 30, 2015 Increase / (Decrease)	Nine months ended September 30, 2016 compared to nine months ended September 30, 2015 Increase / (Decrease)
Increase in average residential voice customers	$ 6	$ 22
Price adjustments and bundle revenue allocation	(4)	(15)
TWC Transaction	507	750
Bright House Transaction	84	125
	$ 593	$ 882

On a pro forma basis, assuming the Transactions occurred as of January 1, 2015, residential voice customers increased by 633,000 from September 30, 2015 to September 30, 2016 and the increase in voice revenues is attributable to the following (dollars in millions):

	Three months ended September 30, 2016 compared to three months ended September 30, 2015 Increase / (Decrease)	Nine months ended September 30, 2016 compared to nine months ended September 30, 2015 Increase / (Decrease)
Increase in average residential voice customers	$ 53	$ 196
Price adjustments and bundle revenue allocation	(32)	(128)
	$ 21	$ 68

Excluding the impacts of the Transactions, small and medium business PSUs grew by 127,000 from September 30, 2015 to September 30, 2016. The increase in small and medium business commercial revenues is attributable to the following (dollars in millions):

	Three months ended September 30, 2016 compared to three months ended September 30, 2015 Increase / (Decrease)	Nine months ended September 30, 2016 compared to nine months ended September 30, 2015 Increase / (Decrease)
Increase in small and medium business customers	$ 33	$ 95
Price adjustments	(9)	(29)
TWC Transaction	565	831
Bright House Transaction	86	128
	$ 675	$ 1,025

On a pro forma basis, assuming the Transactions occurred as of January 1, 2015, small and medium business PSUs increased by 282,000 from September 30, 2015 to September 30, 2016 and the increase in small and medium business commercial revenues is attributable to the following (dollars in millions):

	Three months ended September 30, 2016 compared to three months ended September 30, 2015 Increase / (Decrease)	Nine months ended September 30, 2016 compared to nine months ended September 30, 2015 Increase / (Decrease)
Increase in small and medium business customers	$ 92	$ 265
Price adjustments and service level changes	9	32
	$ 101	$ 297

Excluding the impacts of the Transactions, enterprise PSUs increased 7,000 from September 30, 2015 to September 30, 2016. On a pro forma basis, assuming the Transactions occurred as of January 1, 2015, enterprise PSUs increased by 16,000 from September 30, 2015 to September 30, 2016. The Transactions increased enterprise commercial revenues for the three and nine months ended September 30, 2016 compared to the corresponding periods in 2015 by $411 million and $607 million, respectively. On a pro forma basis, assuming the Transactions occurred as of January 1, 2015, enterprise commercial revenues increased $47 million and $161 million during the three and nine months ended September 30, 2016, respectively, compared to the corresponding periods in 2015 primarily due to growth in customers.

Advertising sales revenues consist primarily of revenues from commercial advertising customers, programmers and other vendors, as well as local cable and advertising on regional sports and news channels. Advertising sales revenues increased $342 million and $506 million during the three and nine months ended September 30, 2016, respectively, compared to the corresponding periods in 2015 primarily due to the Transactions. The Transactions increased advertising sales revenues for the three and nine months ended September 30, 2016 compared to the corresponding periods in 2015 by $336 million and $495 million, respectively. On a pro forma basis, assuming the Transactions occurred as of January 1, 2015, advertising sales revenues increased $45 million and $84 million during the three and nine months ended September 30, 2016, respectively, compared to the corresponding periods in 2015 primarily due to an increase in political advertising.

Other revenues consist of revenue from regional sports and news channels (excluding intercompany charges or advertising sales on those channels), home shopping, late payment fees, wire maintenance fees and other miscellaneous revenues. Other revenues increased $167 million and $251 million during the three and nine months ended September 30, 2016, respectively, compared to the corresponding periods in 2015 primarily as a result of the Transactions. The Transactions increased other revenues for the three and nine months ended September 30, 2016 compared to the corresponding periods in 2015 by $173 million and $257 million, respectively. On a pro forma basis, assuming the Transactions occurred as of January 1, 2015, other revenues decreased $2 million

and increased by $38 million during the three and nine months ended September 30, 2016, respectively, compared to the corresponding periods in 2015. The increase during the nine months ended September 30, 2016 compared to 2015 is primarily due to a settlement related to an early contract termination and an increase in processing fees.

Operating costs and expenses. The increases in our operating costs and expenses, exclusive of items shown separately in the consolidated statements of operations, are attributable to the following (dollars in millions):

	Three months ended September 30, 2016 compared to three months ended September 30, 2015 Increase / (Decrease)	Nine months ended September 30, 2016 compared to nine months ended September 30, 2015 Increase / (Decrease)
Programming	$ 1,737	$ 2,644
Regulatory, connectivity and produced content	400	612
Costs to service customers	1,387	2,044
Marketing	428	660
Transition costs	20	28
Other	890	1,367
	$ 4,862	$ 7,355

Programming costs were approximately $2.4 billion and $667 million, representing 37% and 41% of total operating costs and expenses for the three months ended September 30, 2016 and 2015, respectively, and $4.6 billion and $2.0 billion, representing 38% and 42% of total operating costs and expenses for the nine months ended September 30, 2016 and 2015, respectively. The increases in operating costs and expenses for the three and nine months ended September 30, 2016 compared to the corresponding prior periods were primarily due to the Transactions which increased operating costs and expenses by approximately $4.7 billion and $7.0 billion, respectively.

The increase in other expense is attributable to the following (dollars in millions):

	Three months ended September 30, 2016 compared to three months ended September 30, 2015 Increase / (Decrease)	Nine months ended September 30, 2016 compared to nine months ended September 30, 2015 Increase / (Decrease)
Corporate costs	$ 240	$ 384
Advertising sales expense	149	226
Enterprise	137	207
Bad debt expense	86	118
Property tax and insurance	79	120
Stock compensation expense	61	110
Other	138	202
	$ 890	$ 1,367

The increases in other expense for the three and nine months ended September 30, 2016 compared to the corresponding prior periods were primarily due to the Transactions which increased other expense by approximately $850 million and $1.3 billion, respectively.

On a pro forma basis, assuming the Transactions occurred as of January 1, 2015, increases in our operating costs and expenses, exclusive of items shown separately in the consolidated statements of operations, are attributable to the following (dollars in millions):

	Three months ended September 30, 2016 compared to three months ended September 30, 2015 Increase / (Decrease)	Nine months ended September 30, 2016 compared to nine months ended September 30, 2015 Increase / (Decrease)
Programming	$ 182	$ 524
Regulatory, connectivity and produced content	(15)	11
Costs to service customers	(33)	55
Marketing	4	86
Transition costs	20	28
Other	95	241
	$ 253	$ 945

On a pro forma basis, assuming the Transactions occurred as of January 1, 2015, programming costs were approximately $2.4 billion and $2.2 billion, representing 37% and 36% of total operating costs and expenses for the three months ended September 30, 2016 and 2015, respectively, and $7.2 billion and $6.7 billion, representing 37% and 36% of total operating costs and expenses for the nine months ended September 30, 2016 and 2015, respectively.

Programming costs consist primarily of costs paid to programmers for basic, digital, premium, video on demand, and pay-per-view programming. The increase in pro forma programming costs is primarily a result of annual contractual rate adjustments, including increases in amounts paid for retransmission consents and the introduction of new networks offset by synergies as a result of the Transactions and lower pay-per-view programming expenses. We expect pro forma programming expenses will continue to increase due to a variety of factors, including annual increases imposed by programmers with additional selling power as a result of media consolidation, increased demands by owners of broadcast stations for payment for retransmission consent or linking carriage of other services to retransmission consent, and additional programming, particularly new sports services. We have been unable to fully pass these increases on to our customers nor do we expect to be able to do so in the future without a potential loss of customers.

On a pro forma basis, assuming the Transactions occurred as of January 1, 2015, the increase in other expense is attributable to the following (dollars in millions):

	Three months ended September 30, 2016 compared to three months ended September 30, 2015 Increase / (Decrease)	Nine months ended September 30, 2016 compared to nine months ended September 30, 2015 Increase / (Decrease)
Corporate costs	$ 25	$ 94
Advertising sales expense	23	57
Stock compensation expense	19	35
Enterprise	12	33
Property tax and insurance	(5)	16
Other	21	6
	$ 95	$ 241

The increases in corporate costs relate primarily to increases in the number of employees. Stock compensation expense increased primarily due to increases in headcount and the value of equity issued.

Depreciation and amortization. Depreciation and amortization expense increased by $1.9 billion and $2.8 billion during the three and nine months ended September 30, 2016, respectively, compared to the corresponding periods in 2015 primarily as a result of additional depreciation and amortization related to the Transactions, inclusive of the incremental amounts as a result of the higher fair values recorded in acquisition accounting.

Other operating expenses, net. The changes in other operating expenses, net are attributable to the following (dollars in millions):

	Three months ended September 30, 2016 compared to three months ended September 30, 2015 Increase / (Decrease)	Nine months ended September 30, 2016 compared to nine months ended September 30, 2015 Increase / (Decrease)
Merger and restructuring costs	$ 186	$ 724
Other pension benefits	(13)	(533)
Special charges, net	3	(3)
(Gain) loss on sale of assets, net	(1)	(14)
	$ 175	$ 174

The increase in merger and restructuring costs is primarily due to approximately $171 million and $451 million of employee retention and employee termination costs incurred during the three and nine months ended September 30, 2016, respectively. The nine months ended September 30, 2016 also includes approximately $262 million of Legacy Charter and Legacy TWC contingent financing and advisory transaction fees paid at the closing of the Transactions. The increase in other pension benefits during the nine months ended September 30, 2016 compared to the corresponding prior period is primarily due to the pension curtailment gain of $675 million, net of the remeasurement loss of $157 million. For more information, see Notes 13 and 19 to the accompanying consolidated financial statements contained in “Item 1. Financial Statements.”

Interest expense, net. Net interest expense increased by $371 million and $900 million for the three and nine months ended September 30, 2016, respectively, compared to the corresponding periods in 2015 primarily as a result of an increase of approximately $77 million and $469 million, respectively, of interest expense associated with the debt incurred to fund the Transactions, and $243 million and $359 million, respectively, associated with debt assumed from Legacy TWC.

Loss on extinguishment of debt. Loss on extinguishment of debt of $110 million and $128 million for the nine months ended September 30, 2016 and 2015, respectively, primarily represent losses recognized as a result of the repurchase of CCO Holdings notes. For more information, see Note 7 to the accompanying consolidated financial statements contained in “Item 1. Financial Statements.”

Gain (loss) on financial instruments, net. Interest rate derivative instruments are used to manage our interest costs and to reduce our exposure to increases in floating interest rates, and cross-currency derivative instruments are used to manage foreign exchange risk related to the foreign currency denominated debt assumed in the TWC Transaction. We recorded gains of $71 million and $16 million during the three and nine months ended September 30, 2016, respectively, and losses of $5 million and $10 million during the three and nine months ended September 30, 2015, respectively. Gains and losses on financial instruments are recognized due to changes in the fair value of our interest rate and cross currency derivative instruments and the remeasurement of the fixed-rate British pound sterling denominated notes (the “Sterling Notes”) into U.S. dollars. The nine months ended September 30, 2016, also includes an $11 million loss realized upon termination of Legacy TWC interest rate swap derivative instruments. For more information, see Note 10 to the accompanying consolidated financial statements contained in “Item 1. Financial Statements.”

Other expense, net. Other expense, net primarily represents equity losses on our equity-method investments. For more information, see Note 5 to the accompanying consolidated financial statements contained in “Item 1. Financial Statements.”

Income tax benefit (expense). We recognized income tax expense of $16 million for the three months ended September 30, 2016 and an income tax benefit of $3.1 billion for the nine months ended September 30, 2016, and income tax expense of $142 million and $72 million for the three and nine months ended September 30, 2015, respectively. Certain of the deferred tax liabilities that were assumed in connection with the closing of the TWC Transaction will reverse and provide a source of future taxable income, resulting in a reduction of approximately $3.3 billion of Legacy Charter’s preexisting valuation allowance associated with its

deferred tax assets. Such release of Legacy Charter's valuation allowance was recognized directly to income tax benefit in the consolidated statements of operations for the nine months ended September 30, 2016. Income tax expense and benefit for the three and nine months ended September 30, 2016, respectively, were impacted by a change in a state tax law that resulted in approximately $44 million of tax benefit. The tax provision in future periods will vary based on current and future temporary differences, as well as future operating results. For more information, see Note 14 to the accompanying consolidated financial statements contained in "Item 1. Financial Statements."

Income tax expense in 2015 was recognized primarily through increases in deferred tax liabilities related to Legacy Charter's franchises, which are characterized as indefinite lived for book financial reporting purposes, as well as, to a lesser extent, through current federal and state income tax expense. Current federal and state income tax expense included $22 million and zero for the three months ended September 30, 2016 and 2015, respectively, and $35 million and $4 million for the nine months ended September 30, 2016 and 2015, respectively.

Net income attributable to noncontrolling interest. Net income attributable to noncontrolling interest for financial reporting purposes represents A/N's portion of Charter Holdings' net income based on its effective common unit ownership interest of approximately 10% and on the preferred dividend of $37 million and $55 million for the three and nine months ended September 30, 2016, respectively. For more information, see Note 9 to the accompanying consolidated financial statements contained in "Item 1. Financial Statements."

Net income (loss) attributable to Charter shareholders. Net income attributable to Charter shareholders increased from $54 million for the three months ended September 30, 2015 to $189 million for the three months ended September 30, 2016, and increased from a net loss of $149 million for the nine months ended September 30, 2015 to net income of $3.1 billion for the nine months ended September 30, 2016 primarily as a result of the factors described above. On a pro forma basis, assuming the Transactions occurred as of January 1, 2015, net income attributable to Charter shareholders increased from $2 million for the three months ended September 30, 2015 to $189 million for the three months ended September 30, 2016, and increased from $29 million for the nine months ended September 30, 2015 to $616 million for the nine months ended September 30, 2016.

Use of Adjusted EBITDA and Free Cash Flow

We use certain measures that are not defined by U.S. generally accepted accounting principles ("GAAP") to evaluate various aspects of our business. Adjusted EBITDA and free cash flow are non-GAAP financial measures and should be considered in addition to, not as a substitute for, consolidated net income (loss) and net cash flows from operating activities reported in accordance with GAAP. These terms, as defined by us, may not be comparable to similarly titled measures used by other companies. Adjusted EBITDA and free cash flow are reconciled to consolidated net income (loss) and net cash flows from operating activities, respectively, below.

Adjusted EBITDA is defined as consolidated net income (loss) plus net interest expense, income tax (benefit) expense, depreciation and amortization, stock compensation expense, loss on extinguishment of debt, (gain) loss on financial instruments, other expense, net and other operating expenses, such as merger and restructuring costs, other pension benefits, special charges and (gain) loss on sale or retirement of assets. As such, it eliminates the significant non-cash depreciation and amortization expense that results from the capital-intensive nature of our businesses as well as other non-cash or special items, and is unaffected by our capital structure or investment activities. However, this measure is limited in that it does not reflect the periodic costs of certain capitalized tangible and intangible assets used in generating revenues and our cash cost of financing. These costs are evaluated through other financial measures.

Free cash flow is defined as net cash flows from operating activities, less capital expenditures and changes in accrued expenses related to capital expenditures.

Management and Charter's board of directors use Adjusted EBITDA and free cash flow to assess our performance and our ability to service our debt, fund operations and make additional investments with internally generated funds. In addition, Adjusted EBITDA generally correlates to the leverage ratio calculation under our credit facilities or outstanding notes to determine compliance with the covenants contained in the facilities and notes (all such documents have been previously filed with the Securities and Exchange Commission (the "SEC")). For the purpose of calculating compliance with leverage covenants, we use Adjusted EBITDA, as presented, excluding certain expenses paid by our operating subsidiaries to other Charter entities. Our debt covenants refer to these expenses as management fees, which were $231 million and $79 million for the three months ended September 30, 2016 and 2015, respectively, and $535 million and $231 million for the nine months ended September 30, 2016 and 2015, respectively.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
	Actual			
Consolidated net income (loss)	$ 250	$ 54	$ 3,176	$ (149)
Plus: Interest expense, net	724	353	1,771	871
Income tax (benefit) expense	16	(142)	(3,135)	(72)
Depreciation and amortization	2,437	538	4,412	1,580
Stock compensation expense	81	20	168	58
Loss on extinguishment of debt	—	—	110	128
(Gain) loss on financial instruments, net	(71)	5	(16)	10
Other, net	199	22	253	72
Adjusted EBITDA	$ 3,636	$ 850	$ 6,739	$ 2,498
Net cash flows from operating activities	$ 2,801	$ 689	$ 4,815	$ 1,748
Less: Purchases of property, plant and equipment	(1,748)	(509)	(3,437)	(1,292)
Change in accrued expenses related to capital expenditures	(52)	28	86	11
Free cash flow	$ 1,001	$ 208	$ 1,464	$ 467

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
	Pro Forma			
Consolidated net income	$ 250	$ 40	$ 830	$ 146
Plus: Interest expense, net	724	724	2,155	2,270
Income tax expense	16	1	288	19
Depreciation and amortization	2,437	2,356	7,060	6,961
Stock compensation expense	81	62	219	184
Loss on extinguishment of debt	—	—	110	128
(Gain) loss on financial instruments, net	(71)	5	(16)	10
Other, net	199	(13)	(35)	(132)
Adjusted EBITDA	$ 3,636	$ 3,175	$ 10,611	$ 9,586

Liquidity and Capital Resources

Introduction

This section contains a discussion of our liquidity and capital resources, including a discussion of our cash position, sources and uses of cash, access to credit facilities and other financing sources, historical financing activities, cash needs, capital expenditures and outstanding debt.

Overview of Our Contractual Obligations and Liquidity

We have significant amounts of debt. The principal amount of our debt as of September 30, 2016 was $60.2 billion, consisting of $9.0 billion of credit facility debt, $37.8 billion of investment grade senior secured notes and $13.4 billion of high-yield senior unsecured notes. Our business requires significant cash to fund principal and interest payments on our debt. As of September 30, 2016, $49 million of our long-term debt matures in 2016, $2.2 billion in 2017, $2.2 billion in 2018, $3.5 billion in 2019, $5.2 billion in 2020 and $47.0 billion thereafter.

Our projected cash needs and projected sources of liquidity depend upon, among other things, our actual results, and the timing and amount of our expenditures. Free cash flow was $1.0 billion and $208 million for the three months ended September 30, 2016 and 2015, respectively, and $1.5 billion and $467 million for the nine months ended September 30, 2016 and 2015, respectively. As of September 30, 2016, the amount available under our credit facilities was approximately $2.8 billion and cash on hand was approximately $1.2 billion. We expect to utilize free cash flow, cash on hand and availability under our credit facilities as well as future refinancing transactions to further extend the maturities of or reduce the principal on our obligations. The timing and terms of any refinancing transactions will be subject to market conditions. Additionally, we may, from time to time, and depending on market conditions and other factors, use cash on hand and the proceeds from securities offerings or other borrowings to retire our debt through open market purchases, privately negotiated purchases, tender offers or redemption provisions. We believe we have sufficient liquidity from cash on hand, free cash flow and Charter Operating's revolving credit facility as well as access to the capital markets to fund our projected cash needs.

We continue to evaluate the deployment of our anticipated future free cash flow including to invest in our business growth and other strategic opportunities, including mergers and acquisitions as well as stock repurchases and dividends and to reduce our leverage. Our target leverage remains at 4 to 4.5 times, and 3.5 times at the Charter Operating level. On October 25, 2016, Charter's board of directors authorized management to engage in opportunistic share repurchases of up to $750 million in any six-month period with the first period commencing the day of any repurchase after Charter's third quarter 2016 earnings release and provided that Charter's net debt remains within its then current target leverage range. Charter is not obligated to acquire any particular amount of common stock, and the timing of any purchases that may occur cannot be predicted and will largely depend on market conditions and other potential uses of capital. Purchases may include open market purchases or negotiated transactions. As possible acquisitions, swaps or dispositions arise in our industry, we actively review them against our objectives including, among other considerations, improving the operational efficiency, clustering or technology capabilities of our business and achieving appropriate return targets, and we may participate to the extent we believe these possibilities present attractive opportunities. However, there can be no assurance that we will actually complete any acquisitions, dispositions or system swaps, or that any such transactions will be material to our operations or results.

Free Cash Flow

Free cash flow increased $793 million and $997 million during the three and nine months ended September 30, 2016 compared to the corresponding prior periods in 2015, respectively, due to the following (dollars in millions).

	Three months ended September 30, 2016 compared to three months ended September 30, 2015 Increase / (Decrease)	Nine months ended September 30, 2016 compared to nine months ended September 30, 2015 Increase / (Decrease)
Increase in Adjusted EBITDA	$ 2,786	$ 4,241
Changes in working capital, excluding change in accrued interest	154	636
Increase in capital expenditures	(1,239)	(2,145)
Increase in cash paid for interest, net	(751)	(1,186)
Increase in merger and restructuring costs	(129)	(522)
Other, net	(28)	(27)
	$ 793	$ 997

Contractual Obligations

The following table summarizes our payment obligations as of September 30, 2016 under our long-term debt and certain other contractual obligations and commitments (dollars in millions).

	Payments by Period				
	Total	**Remainder of 2016**	**2017-2018**	**2019-2020**	**More than 5 years**
Long-Term Debt Principal Payments (a)	$ 60,168	$ 49	$ 4,394	$ 8,762	$ 46,963
Long-Term Debt Interest Payments (b)	38,978	724	6,503	5,703	26,048
Capital and Operating Lease Obligations (c)	1,332	82	450	295	505
Programming Minimum Commitments (d)	355	58	258	39	—
Other (e)	13,331	291	1,624	1,311	10,105
Total	$ 114,164	$ 1,204	$ 13,229	$ 16,110	$ 83,621

(a) The table presents maturities of long-term debt outstanding as of September 30, 2016. Refer to Note 7 to the accompanying consolidated financial statements contained in "Item 1. Financial Statements" for a description of our long-term debt.

(b) Interest payments on variable debt are estimated using amounts outstanding as of September 30, 2016 and the average implied forward London Interbank Offering Rate ("LIBOR") rates applicable for the quarter during the interest rate reset based on the yield curve in effect at September 30, 2016. Actual interest payments will differ based on actual LIBOR rates and actual amounts outstanding for applicable periods.

(c) We lease certain facilities and equipment under noncancelable capital and operating leases. Leases and rental costs charged to expense for the three months ended September 30, 2016 and 2015 were $79 million and $12 million, respectively, and for the nine months ended September 30, 2016 and 2015 were $136 million and $36 million, respectively.

(d) We pay programming fees under multi-year contracts ranging from three to ten years, typically based on a flat fee per customer, which may be fixed for the term, or may in some cases escalate over the term. Programming costs included in the accompanying statement of operations were approximately $2.4 billion and $667 million for the three months ended September 30, 2016 and 2015, respectively, and $4.6 billion and $2.0 billion for the nine months ended September 30, 2016 and 2015, respectively. Certain of our programming agreements are based on a flat fee per month or have guaranteed minimum payments. The table sets forth the aggregate guaranteed minimum commitments under our programming contracts.

(e) "Other" represents other guaranteed minimum commitments, including programming rights negotiated directly with content owners for distribution on Company-owned channels or networks and commitments related to our role as an advertising and distribution sales agent for third party-owned channels or networks as well as commitments to our customer premise equipment vendors.

Charter has agreed to certain commitments that were effective upon the consummation of the Transactions. See "Transaction-Related Commitments" for more information. Additionally, see Note 17 to the accompanying consolidated financial statements contained in "Item 1. Financial Statements" for items not included in the contractual obligations table, but we incur as part of operations.

Limitations on Distributions

Distributions by our subsidiaries to a parent company for payment of principal on parent company notes are restricted under indentures and credit facilities governing our indebtedness, unless there is no default under the applicable indenture and credit facilities, and unless each applicable subsidiary's leverage ratio test is met at the time of such distribution. As of September 30, 2016, there was no default under any of these indentures or credit facilities, and each subsidiary met its applicable leverage ratio tests based on September 30, 2016 financial results. Such distributions would be restricted, however, if any such subsidiary fails to meet these tests at the time of the contemplated distribution. In the past, certain subsidiaries have from time to time failed to meet their leverage ratio test. There can be no assurance that they will satisfy these tests at the time of the contemplated distribution. Distributions by Charter Operating for payment of principal on parent company notes are further restricted by the covenants in its credit facilities.

However, without regard to leverage, during any calendar year or any portion thereof during which the borrower is a flow-through entity for tax purposes, and so long as no event of default exists, the borrower may make distributions to the equity interests of the borrower in an amount sufficient to make permitted tax payments.

In addition to the limitation on distributions under the various indentures discussed above, distributions by our subsidiaries may be limited by applicable law, including the Delaware Limited Liability Company Act, under which our subsidiaries may only make distributions if they have “surplus” as defined in the act.

Historical Operating, Investing, and Financing Activities

Cash and Cash Equivalents. We held $1.2 billion and $5 million in cash and cash equivalents as of September 30, 2016 and December 31, 2015, respectively. We also held $22.3 billion in restricted cash and cash equivalents as of December 31, 2015 representing proceeds of debt raised to fund the cash portion of the TWC Transaction consideration that were held in escrow until consummation of the TWC Transaction.

Operating Activities. Net cash provided by operating activities increased $3.1 billion during the nine months ended September 30, 2016 compared to the nine months ended September 30, 2015, primarily due to an increase in Adjusted EBITDA of $4.2 billion offset by an increase in cash paid for interest, net of $1.2 billion.

Investing Activities. Net cash used in investing activities was $9.9 billion and $13.9 billion for the nine months ended September 30, 2016 and 2015, respectively. Cash used in investing activities during the nine months ended September 30, 2016 primarily represented the acquisitions of TWC and Bright House. Cash used in investing activities during the nine months ended September 30, 2015 primarily represented the investment in 2015 of net proceeds from the issuance of the CCO Safari II notes and CCO Safari III credit facilities in long-term restricted cash and cash equivalents offset by the repayment of $7.1 billion of net proceeds held in escrow upon the termination of the proposed transactions with Comcast. The decrease in cash used in investing activities during the nine months ended September 30, 2016 compared to the nine months ended September 30, 2015 is offset by an increase in capital expenditures of $2.1 billion.

Financing Activities. Net cash provided by financing activities was $6.3 billion and $12.1 billion for the nine months ended September 30, 2016 and 2015, respectively. The decrease in cash provided was primarily due to the issuance in 2015 of the CCO Safari II notes and CCO Safari III credit facilities offset by the repayment in 2015 of $7.1 billion of net proceeds held in escrow upon the termination of the proposed transactions with Comcast as compared to the issuance of $5 billion of equity to Liberty Broadband to fund a portion of the Transactions in 2016.

Capital Expenditures

We have significant ongoing capital expenditure requirements. Capital expenditures were $1.7 billion and $509 million for the three months ended September 30, 2016 and 2015, respectively, and $3.4 billion and $1.3 billion for the nine months ended September 30, 2016 and 2015, respectively. The increase was driven by the Transactions. On a pro forma basis, assuming the Transactions occurred as of January 1, 2015, the increase for the nine months ended September 30, 2016 compared to the corresponding prior period was driven by higher product development investments, transition capital expenditures incurred in connection with the Transactions and support capital investments. See the table below for more details.

The actual amount of our capital expenditures in 2016 will depend on a number of factors, including the pace of transition planning to service a larger customer base as a result of the Transactions and growth rates of both our residential and commercial businesses.

Our capital expenditures are funded primarily from cash flows from operating activities and borrowings on our credit facility. In addition, our accrued liabilities related to capital expenditures increased by $86 million and $11 million for the nine months ended September 30, 2016 and 2015, respectively.

The following tables present our major capital expenditures categories on an actual and pro forma basis, assuming the Transactions occurred as of January 1, 2015, in accordance with National Cable and Telecommunications Association ("NCTA") disclosure guidelines for the three and nine months ended September 30, 2016 and 2015. The disclosure is intended to provide more consistency in the reporting of capital expenditures among peer companies in the cable industry. These disclosure guidelines are not required disclosures under GAAP, nor do they impact our accounting for capital expenditures under GAAP (dollars in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
	Actual			
Customer premise equipment (a)	$ 662	$ 163	$ 1,177	$ 448
Scalable infrastructure (b)	441	142	937	335
Line extensions (c)	249	57	467	144
Upgrade/rebuild (d)	156	38	307	94
Support capital (e)	240	109	549	271
Total capital expenditures	$ 1,748	$ 509	$ 3,437	$ 1,292
Capital expenditures included in total related to:				
Commercial services	$ 278	$ 70	$ 533	$ 186
Transition (f)	$ 109	$ 24	$ 273	$ 66

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2016	2015	2016	2015
	Pro Forma			
Customer premise equipment (a)	$ 662	$ 712	$ 2,074	$ 2,097
Scalable infrastructure (b)	441	330	1,556	1,188
Line extensions (c)	249	237	751	725
Upgrade/rebuild (d)	156	171	461	438
Support capital (e)	240	249	815	690
Total capital expenditures	$ 1,748	$ 1,699	$ 5,657	$ 5,138

(a) Customer premise equipment includes costs incurred at the customer residence to secure new customers and revenue generating units. It also includes customer installation costs and customer premise equipment (e.g., set-top boxes and cable modems).
(b) Scalable infrastructure includes costs not related to customer premise equipment, to secure growth of new customers and revenue generating units, or provide service enhancements (e.g., headend equipment).
(c) Line extensions include network costs associated with entering new service areas (e.g., fiber/coaxial cable, amplifiers, electronic equipment, make-ready and design engineering).
(d) Upgrade/rebuild includes costs to modify or replace existing fiber/coaxial cable networks, including betterments.
(e) Support capital includes costs associated with the replacement or enhancement of non-network assets due to technological and physical obsolescence (e.g., non-network equipment, land, buildings and vehicles).
(f) Transition represents incremental costs incurred to integrate the Legacy TWC and Legacy Bright House operations and to bring the three companies' systems and processes into a uniform operating structure.

Recently Issued Accounting Standards

See Note 21 to the accompanying consolidated financial statements contained in "Item 1. Financial Statements" for a discussion of recently issued accounting standards.

Item 3. ***Quantitative and Qualitative Disclosures About Market Risk.***

We use derivative instruments to manage interest rate risk on variable debt and foreign exchange risk on the Sterling Notes, and do not hold or issue derivative instruments for speculative trading purposes.

Interest rate derivative instruments are used to manage interest costs and to reduce our exposure to increases in floating interest rates. We manage our exposure to fluctuations in interest rates by maintaining a mix of fixed and variable-rate debt. Using interest rate derivative instruments, we agree to exchange, at specified intervals through 2017, the difference between fixed and variable interest amounts calculated by reference to agreed-upon notional principal amounts.

Upon closing of the TWC Transaction, we assumed cross-currency derivative instruments. Cross-currency derivative instruments are used to effectively convert £1.275 billion aggregate principal amount of fixed-rate British pound sterling denominated debt, including annual interest payments and the payment of principal at maturity, to fixed-rate U.S. dollar denominated debt. The cross-currency derivative instruments have maturities of June 2031 and July 2042. We are required to post collateral on the cross-currency derivative instruments when such instruments are in a liability position. In May 2016, we entered into a collateral holiday agreement for 80% of both the 2031 and 2042 cross-currency swaps, which eliminates the requirement to post collateral for three years. For more information, see Note 10 to the accompanying consolidated financial statements contained in "Item 1. Financial Statements."

As of September 30, 2016 and December 31, 2015, the principal amount of our debt was approximately $60.2 billion and $35.9 billion, respectively. As of December 31, 2015, this included $21.8 billion of debt which proceeds were held in escrow pending consummation of the TWC Transaction. As of September 30, 2016 and December 31, 2015, the weighted average interest rate on the credit facility debt, including the effects of our interest rate swap agreements, was approximately 3.2% and 3.3%, respectively, and the weighted average interest rate on the senior notes was approximately 5.9% and 5.5%, respectively, resulting in a blended weighted average interest rate of 5.5% and 5.1%, respectively. The interest rate on approximately 87% and 83% of the total principal amount of our debt was effectively fixed, including the effects of our interest rate swap agreements as of September 30, 2016 and December 31, 2015, respectively.

The table set forth below summarizes the fair values and contract terms of financial instruments subject to interest rate risk maintained by us as of September 30, 2016 (dollars in millions).

	2016	2017	2018	2019	2020	Thereafter	Total	Fair Value
Debt:								
Fixed-Rate	$ —	$ 2,000	$ 2,000	$ 3,250	$ 3,500	$ 40,453	$ 51,203	$ 56,899
Average Interest Rate	—%	5.85%	6.75%	8.44%	4.19%	5.76%	5.86%	
Variable Rate	$ 49	$ 197	$ 197	$ 296	$ 1,716	$ 6,510	$ 8,965	$ 8,975
Average Interest Rate	2.91%	3.21%	3.35%	3.99%	3.81%	4.41%	4.22%	
Interest Rate Instruments:								
Variable to Fixed-Rate	$ 250	$ 850	$ —	$ —	$ —	$ —	$ 1,100	$ 8
Average Pay Rate	3.89%	3.84%	—%	—%	—%	—%	3.86%	
Average Receive Rate	3.17%	3.35%	—%	—%	—%	—%	3.31%	

As of September 30, 2016, we had $1.1 billion in notional amounts of interest rate derivative instruments outstanding. The notional amounts of interest rate derivative instruments do not represent amounts exchanged by the parties and, thus, are not a measure of our exposure to credit loss. The amounts exchanged are determined by reference to the notional amount and the other terms of the contracts.

The estimated fair value of the interest rate derivative instruments is determined using a present value calculation based on an implied forward LIBOR curve (adjusted for Charter Operating's and counterparties' credit risk). Interest rates on variable-rate debt are estimated using the average implied forward LIBOR for the year of maturity based on the yield curve in effect at September 30, 2016 including applicable bank spread.

Item 4. ***Controls and Procedures.***

As of the end of the period covered by this report, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we have evaluated the effectiveness of our design and operation of disclosure controls and procedures with respect to the information generated for use in this quarterly report. The evaluation was based upon reports and certifications provided by a number of executives. Based on, and as of the date of that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that the disclosure controls and procedures were effective to provide reasonable assurances that information required to be disclosed in the reports we file or submit under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms.

In designing and evaluating the disclosure controls and procedures, our management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable, not absolute, assurance of achieving the desired control objectives, and management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based upon the evaluation, we believe that our controls provide such reasonable assurances.

On May 18, 2016, we completed the Transactions and as a result, we have incorporated internal controls over significant processes specific to the Transactions and to activities post Transactions that we believe to be appropriate and necessary in consideration of the related integration, including controls associated with the Transactions for the valuations of certain Legacy TWC and Legacy Bright House assets and liabilities assumed, as well as adoption of common financial reporting and internal control practices for the combined company. As we further integrate Legacy TWC and Legacy Bright House, we will continue to validate the effectiveness and integration of internal controls.

Except as described above in the preceding paragraph, during the quarter ended September 30, 2016, there was no change in our internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II

Item 1. *Legal Proceedings.*

Our Annual Report on Form 10-K for the year ended December 31, 2015 includes "Legal Proceedings" under Item 3 of Part I. Other than as described in Note 17 to the accompanying consolidated financial statements contained in "Item 1. Financial Statements," there have been no material changes from the legal proceedings described in our Form 10-K.

Item 1A. *Risk Factors.*

Our Quarterly Report on Form 10-Q for the three and six months ended June 30, 2016 includes "Risk Factors" under Item 1A of Part II. There have been no material changes from the updated risk factors described in our Form 10-Q.

Item 2. *Unregistered Sales of Equity Securities and Use of Proceeds.*

(C) Purchases of Equity Securities by the Issuer

The following table presents Charter's purchases of equity securities completed during the third quarter of 2016 (dollars in millions, except per share amounts):

Period	Total Number of Shares Purchased [1]	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs [2]	Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs [2]
July 1 - 31, 2016	134,979	$235.50	N/A	N/A
August 1 - 31, 2016	90,924	$250.28	N/A	N/A
September 1 - 30, 2016	1,127,072	$269.47	1,050,033	$469

(1) Represents 134,979, 90,924 and 77,039 shares withheld from employees for the payment of taxes and exercise costs upon the exercise of stock options or vesting of other equity awards for the months of July, August and September 2016, respectively.

(2) In July 2016, Charter's board of directors authorized the repurchase of up to $750 million of Charter's Class A common stock. Under this authorization, shares of Charter's Class A common stock may be purchased from time to time during the course of any six-month period. As of September 30, 2016, approximately 1.1 million shares of Charter's Class A common stock were repurchased under the program for a total of approximately $281 million.

Item 5. *Other Information.*

On November 2, 2016, Charter entered into new employment agreements with its President and Chief Operating Officer, John Bickham; Chief Financial Officer, Christopher L. Winfrey; and Executive Vice President and Chief Marketing Officer, Jonathan Hargis. The new employment agreements supersede the prior employment agreements between each of the foregoing executive officers and Charter.

Each of the employment agreements has an initial term of five years, which is subject to renewal thereafter for one-year periods at Charter's discretion. In consideration for the services of Messrs. Bickham, Winfrey and Hargis, the employment agreements provide for an annual base salary of $1,500,000, $850,000 and $600,000, respectively, a target annual bonus opportunity of 200%, 150% and 110%, respectively, of annual base salary and participation in employee benefit plans generally on the same terms as our other senior executives. In addition, Mr. Bickham may use Charter's jet aircraft for personal purposes for up to 80 hours per calendar year, and each of Messrs. Bickham, Winfrey and Hargis are entitled to reimbursement of legal fees incurred in connection with the negotiation of the employment agreements of up to $50,000, $20,000 and $10,000, respectively.

If the employment of Messrs. Bickham, Winfrey or Hargis were terminated involuntarily by Charter without cause or by the executive officer for good reason, the executive officer would be entitled to (a) a cash severance payment equal to the product of 2.5 (in the case of Mr. Bickham) or 2.0 (in the case of Messrs. Winfrey and Hargis) multiplied by the sum of his annual base salary and target annual bonus opportunity for the year in which the termination occurs, (b) a cash payment equal to the cost of COBRA coverage for 30 months (in the case of Mr. Bickham) or 24 months (in the case of Messrs. Winfrey and Hargis) following termination

and (c) up to 12 months of executive-level outplacement services. In addition, upon a termination of employment under such circumstances or due to death or disability, Mr. Bickham would be entitled to a prorated annual bonus for the year of termination (determined based on actual performance) and a cash payment for the intrinsic value of his performance equity awards granted in June and July 2016 as to which the applicable stock price target is met upon termination, which payment would be prorated based on the portion of the applicable three, four or five year vesting period elapsed as of the date of termination.

The foregoing severance benefits generally are subject to the applicable executive officer's execution of a release of claims in favor of Charter and its affiliates. In addition, Messrs. Bickham, Winfrey and Hargis have each agreed to comply with noncompetition and customer nonsolicitation covenants for one year following termination (in the case of Mr. Bickham) or two years following termination (in the case of Messrs. Winfrey and Hargis), a nonsolicitation of employees covenant for two years following termination (in the case of Mr. Bickham) or one year following termination (in the case of Messrs. Winfrey and Hargis), a perpetual confidentiality covenant and a perpetual nondisparagement covenant.

Following the conclusion of the initial term of the employment agreements in 2021, each of Messrs. Bickham and Hargis would be entitled to a prorated annual bonus for such year (determined based on actual performance) if their employment terminates in such year for any reason. If Mr. Winfrey's employment terminates for any reason following a notice of non-renewal of his employment agreement, he would be entitled to a prorated annual bonus for the year of termination (determined based on actual performance).

The foregoing summary of the employment agreements with Messrs. Bickham, Winfrey and Hargis does not purport to be complete and is qualified in its entirety by reference to the full text of each employment agreement, which are included as Exhibits 10.1, 10.2 and 10.3, respectively, hereto.

Item 6. ***Exhibits.***

See Exhibit Index.

EXHIBIT A

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, Charter Communications, Inc. has duly caused this quarterly report to be signed on its behalf by the undersigned, thereunto duly authorized.

CHARTER COMMUNICATIONS, INC.,
Registrant

By: /s/ Kevin D. Howard

Kevin D. Howard
Senior Vice President - Finance, Controller and
Chief Accounting Officer

Date: November 3, 2016

EXHIBIT A

Exhibit Index

Exhibit	Description
10.1*	Employment Agreement dated effective as of November 2, 2016 by and between Charter Communications, Inc. and John Bickham.
10.2*	Employment Agreement dated effective as of November 2, 2016 by and between Charter Communications, Inc. and Christopher L. Winfrey.
10.3*	Employment Agreement dated effective as of November 2, 2016 by and between Charter Communications, Inc. and Jonathan Hargis.
31.1*	Certificate of Chief Executive Officer pursuant to Rule 13a-14(a)/Rule 15d-14(a) under the under the Securities Exchange Act of 1934.
31.2*	Certificate of Chief Financial Officer pursuant to Rule 13a-14(a)/Rule 15d-14(a) under the Securities Exchange Act of 1934.
32.1*	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (Chief Executive Officer).
32.2*	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (Chief Financial Officer).
99.1*	Reconciliation of pro forma financial information.
101**	The following financial statements from Charter Communications, Inc.'s Quarterly Report on Form 10-Q for the three and nine months ended September 30, 2016, filed with the Securities and Exchange Commission on November 3, 2016, formatted in XBRL (eXtensible Business Reporting Language): (i) the Consolidated Balance Sheets; (ii) the Consolidated Statements of Operations; (iii) the Consolidated Statements of Comprehensive Income (Loss); (iv) the Consolidated Statements of Changes in Shareholders' Equity (Deficit); (v) the Consolidated Statements of Cash Flows; and (vi) the Notes to the Consolidated Financial Statements.

____

* Filed herewith.

** This exhibit will not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 (15 U.S.C. 78r) or otherwise subject to the liability of that section. Such exhibit will not be deemed to be incorporated by reference into any filing under the Securities Act or Securities Exchange Act, except to the extent that the company specifically incorporates it by reference.

EXHIBIT 10.1

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this "Agreement"), by and among Charter Communications, Inc., a Delaware corporation (the "Company"), and John Bickham ("Executive"), is dated as of November 2, 2016.

RECITALS:

WHEREAS, it is the desire of the Company to assure itself of the continued services of Executive by continuing to engage Executive as its President and Chief Operating Officer and the Executive desires to serve the Company on the terms herein provided;

WHEREAS, Executive and the Company are party to an employment agreement dated and effective as of April 30, 2012 (the "Prior Employment Agreement");

WHEREAS, Executive and the Company (the "Parties") desire to enter into this Agreement, as an amendment and restatement of the Prior Employment Agreement in order for the Company and its affiliates to continue to engage the services of Executive and Executive desires to continue to serve the Company on the terms herein provided; and

WHEREAS, Executive's agreement to the terms and conditions of Sections 13, 14 and 15 are a material and essential condition of Executive's employment with the Company under the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and of the respective covenants and agreements set forth below, the Parties agree as follows:

1. Certain Definitions.

(a) "Annual Base Salary" shall have the meaning set forth in Section 5.

(b) "Board" shall mean the Board of Directors of the Company.

(c) "Bonus" shall have the meaning set forth in Section 6.

(d) The Company shall have "Cause" to terminate Executive's employment hereunder upon:

(i) Executive's willful breach of a material obligation (which, if curable, is not cured within ten (10) business days after the Company provides written notice of such breach) or representation under this Agreement, Executive's willful breach of any fiduciary duty to the Company, which, if curable, is not cured within ten (10) business days after the Company provides written notice of such breach; or any act of fraud or willful and material misrepresentation or concealment upon, to or from the Company or the Board;

(ii) Executive's willful failure to comply in any material respect with (A) the Company's Code of Conduct in effect from time to time and applicable to officers and/or employees generally, or (B) any written Company policy, if such policy is material to the effective performance by Executive of

Executive's duties under this Agreement, and, if such failure is curable, if Executive has been given a reasonable opportunity to cure this failure to comply within a period of time which is reasonable under the circumstances but not more than the thirty (30)-day period after written notice of such failure is provided to Executive; provided that if Executive cures this failure and then fails again to comply with the same provision of the Code of Conduct or the same written Company policy, no further opportunity to cure that failure shall be required;

(iii) Executive's misappropriation (or attempted misappropriation) of a material amount of the Company's funds or property;

(iv) Executive's conviction of, the entering of a guilty plea or plea of nolo contendere or no contest (or the equivalent), with respect to (A) either a felony or a crime that materially adversely affects or could reasonably be expected to materially adversely affect the Company or its business reputation; or (B) fraud, embezzlement, any felony offense involving dishonesty or constituting a breach of trust or moral turpitude;

(v) Executive's admission of liability of, or finding of liability by a court of competent jurisdiction for, a knowing and deliberate violation of any "Securities Laws"; provided that any termination of Executive by the Company for Cause pursuant to this clause (v) based on finding of liability by the court shall be treated instead for all purposes of this Agreement as a termination by the Company without Cause, with effect as of the date of such termination, if such finding is reversed on appeal in a decision from which an appeal may not be taken or as to which the time to appeal has expired. As used herein, the term "Securities Laws" means any federal or state law, rule or regulation governing generally the issuance or exchange of securities, including without limitation the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the "Exchange Act");

(vi) Executive's illegal possession or use of any controlled substance or excessive use of alcohol, in each case at a work function, in connection with Executive's duties, or on Company premises; "excessive" meaning either repeated unprofessional use or any single event of consumption giving rise to significant intoxication or unprofessional behavior; or

(vii) Executive's willful or grossly negligent commission of any other act or willful failure to act in connection with Executive's duties as an executive of the Company which causes or should reasonably be expected (as of the time of such occurrence) to cause substantial economic injury to or substantial injury to the business reputation of the Company, including, without limitation, any material violation of the Foreign Corrupt Practices Act, as described herein below.

No termination of Executive's employment shall be effective as a termination for Cause for purposes of this Agreement or any other "Company Arrangement" (as defined in Section 11(g)) unless Executive shall first have been given written notice by the Board of its intention to terminate his employment for Cause, such notice (the "Cause Notice") to state in detail the particular circumstances that constitute the grounds on which the proposed termination for Cause is based. If, within twenty (20) calendar days after such Cause Notice is given to Executive, the Board gives written notice to Executive confirming that, in the judgment of at least a majority of the members of the Board, Cause for terminating his employment on the basis set forth in the original Cause Notice exists, his employment hereunder shall thereupon be terminated for Cause, subject to de novo review, at Executive's election, through arbitration in accordance with Section 29. If Executive commits or is charged with committing any offense of the character or type specified in subparagraph 1(d)(iv), (v) or (vi) herein, then the Company at its option may suspend Executive with or

without pay and such suspension shall not constitute "Good Reason" hereunder or for purposes of any other arrangement with the Company. If Executive subsequently is convicted of, pleads guilty or nolo contendere (or equivalent plea) to, any such offense, Executive shall immediately repay the after-tax amount of any compensation paid in cash hereunder from the date of the suspension. Notwithstanding anything to the contrary in any stock option or equity incentive plan or award agreement, all vesting and all lapsing of restrictions on restricted shares shall be tolled during the period of suspension and all unvested options and restricted shares for which the restrictions have not lapsed shall terminate and not be exercisable by or issued to Executive if during or after such suspension Executive is convicted of, pleads guilty or nolo contendere (or equivalent plea) to, any offense specified in subparagraph 1(d)(iv) or (v). However, if Executive is found not guilty of all offenses relating to his suspension, or the charges relating to all such offenses are otherwise dropped, Executive shall be entitled to immediate payment of any amounts not paid during the suspension and any awards as to which the vesting or lapsing of restrictions was tolled shall immediately vest and applicable restrictions shall immediately lapse.

(e) "Change of Control" shall mean the occurrence of any of the following events:

(i) an acquisition of any voting securities of the Company by any "Person" or "Group" (as those terms are used for purposes of Section 13(d) or 14(d) of the Exchange Act), immediately after which such Person has "Beneficial Ownership" (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of thirty-five percent (35%) or more of the combined voting power of the Company's then-outstanding voting securities; provided, however, that the acquisition of voting securities in a "Non-Control Transaction" (as hereinafter defined) shall not constitute a Change of Control;

(ii) the individuals who, as of the Effective Date, are members of the Board (the "Incumbent Board"), cease for any reason to constitute a majority of the Board; provided, however, that if the election, or nomination for election by the Company's common stockholders, of any new director (excluding any director whose nomination or election to the Board is the result of any actual or threatened proxy contest or settlement thereof) was approved by a vote of at least a majority of the Incumbent Board, such new director shall, for purposes of this Agreement, be considered as a member of the Incumbent Board;

(iii) the consummation of a merger, consolidation or reorganization with or into the Company or in which securities of the Company are issued (a "Merger"), unless such Merger is a Non-Control Transaction. A "Non-Control Transaction" shall mean a Merger where: (1) the stockholders of the Company immediately before such Merger own, directly or indirectly, immediately following such Merger more than fifty percent (50%) of the combined voting power of the outstanding voting securities of the entity resulting from such Merger or its controlling parent entity (the "Surviving Entity"), (2) the individuals who were members of the Incumbent Board immediately prior to the execution of the agreement providing for such Merger constitute at least a majority of the members of the board of directors (or similar governing body) of the Surviving Entity, and (3) no Person other than (X) the Company, its subsidiaries or any entity controlling, controlled by or under common control with the Company (each such entity, an "affiliate") or any of their respective employee benefit plans (or any trust forming a part thereof) that, immediately prior to such Merger, was maintained by the Company or any subsidiary or affiliate of the Company, or (Y) any Person who, immediately prior to such Merger, had Beneficial Ownership of thirty-five percent (35%) or more of the then-outstanding voting securities of the Company, has Beneficial Ownership of thirty-five percent (35%) or more of the combined voting power of the outstanding voting securities or common stock of the Surviving Entity;

(iv) the approval by the holders of the Company's then-outstanding voting securities of a complete liquidation or dissolution of the Company (other than where all or substantially all of assets of the Company are transferred to or remain with subsidiaries of the Company); or

(v) the sale or other disposition of all or substantially all of the assets of the Company and its direct and indirect subsidiaries on a consolidated basis, directly or indirectly, to any Person (other than a transfer to an affiliate of the Company) unless such sale or disposition constitutes a Non-Control Transaction (with the disposition of assets being regarded as a Merger for this purpose).

Notwithstanding the foregoing, a Change of Control shall not occur solely based on a filing of a Chapter 11 reorganization proceeding of the Company.

(f) "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder.

(g) "Committee" shall mean either the Compensation and Benefits Committee of the Board, or a subcommittee of such Committee duly appointed by the Board or the Committee, or any successor to the functions thereof.

(h) "Company" shall have the meaning set forth in the preamble hereto.

(i) "Corporate Office" shall mean the Company's offices in or near the metropolitan areas of Stamford, Connecticut or New York, New York.

(j) "Date of Termination" shall mean (i) if Executive's employment is terminated by Executive's death, the date of Executive's death and (ii) if Executive's employment is terminated pursuant to Section 10(a)(ii)-(vi), the date of termination of employment as provided thereunder. After the Date of Termination, unless otherwise agreed by the Parties, Executive shall, to the extent necessary to avoid the imposition of penalty taxes under Section 409A of the Code, have no duties that are inconsistent with his having had a "separation from service" as of the Date of Termination for purposes of Section 409A of the Code.

(k) For purposes of this Agreement, Executive will be deemed to have a "Disability" if, due to illness, injury or a physical or medically recognized mental condition, (i) Executive is unable to perform Executive's duties under this Agreement with reasonable accommodation for one hundred and twenty (120) consecutive calendar days, or one hundred and eighty (180) calendar days during any twelve (12)-month period, as determined in accordance with this Section 1(k), or (ii) Executive is considered disabled for purposes of receiving/qualifying for long-term disability benefits under any group long-term disability insurance plan or policy offered by the Company in which Executive participates. The Disability of Executive will be determined by a medical doctor selected by written agreement of the Company and Executive upon the request of either Party by notice to the other, or (in the case of and with respect to any applicable long-term disability insurance policy or plan) will be determined according to the terms of the applicable long-term disability insurance policy/plan. If the Company and Executive cannot agree on the selection of a medical doctor, each of them will select a medical doctor and the two medical doctors will select a third medical doctor who will determine whether Executive has a Disability. The determination of the medical doctor selected under this Section 1(k) will be binding on both Parties. Executive must submit to a reasonable number of examinations by the medical doctor making the determination of Disability under this Section 1(k), and to other specialists designated by such medical doctor, and Executive hereby authorizes the disclosure and release to the Company of such determination and all supporting medical records. If Executive is not

legally competent, Executive's legal guardian or duly authorized attorney-in-fact will act in Executive's stead under this Section 1(k) for the purposes of submitting Executive to the examinations, and providing the authorization of disclosure, required under this Section 1(k).

(l) "Effective Date" shall mean May 18, 2016.

(m) "Employment Effective Date" shall mean the date Executive's employment with the Company or a predecessor commenced.

(n) "Executive" shall have the meaning set forth in the preamble hereto.

(o) "Good Reason" shall mean any of the events described herein that occur without Executive's prior written consent: (i) any reduction in Executive's Annual Base Salary or Target Bonus; (ii) any failure to pay or provide Executive's compensation hereunder when due; (iii) any material breach by the Company of a material term of this Agreement; (iv) a material adverse change of Executive's title, authorities, duties or responsibilities, including without limitation a transfer or reassignment to another executive of material responsibilities that have been assigned to Executive and generally are part of the responsibilities and functions assigned to a President and Chief Operating Officer of a public corporation, or the appointment of another individual to the same or similar titles or position; provided that this clause (iv) shall not apply following the delivery to Executive by the Company of a Non-renewal Notice at any time prior to a Change of Control and within one hundred ninety (190) days prior to the end of the term of this Agreement; (v) relocation of Executive's primary workplace to a location that is more than fifty (50) miles from the Corporate Office (in each case of clauses (i) through (v) only if Executive objects to the Company in writing within ninety (90) calendar days after first becoming aware of such event and unless the Company retracts and/or rectifies the claimed Good Reason event within thirty (30) calendar days following receipt of such notice; (vi) the failure of a successor to the business of the Company to assume the Company's obligations under this Agreement in the event of a Change of Control during the Term; or (vii) any change in reporting structure such that Executive no longer reports directly to the Chief Executive Officer of the Company (or, if the Company becomes a subsidiary of another entity, the Chief Executive Officer of the ultimate parent entity).

(p) "Notice of Termination" shall have the meaning set forth in Section 10(b).

(q) "Non-renewal Notice" shall have the meaning set forth in Section 2.

(r) "Person" shall have the meaning set forth in Sections 13(d) and 14(d)(2) of the Exchange Act.

(r) "Plan" shall mean the Company's 2009 Stock Incentive Plan, as amended by the Company from time to time, and any successor thereto.

(s) "Pro-Rata Bonus" shall mean a pro-rata portion of the Bonus granted to Executive for the year in which the Date of Termination occurs equal to a fraction, the numerator of which is the number of calendar days during such year through (and including) the Date of Termination and the denominator of which is 365, with such pro-rata portion earned in an amount based on the degree to which the applicable performance financial and operational goals are ultimately achieved, as determined by the Committee on a basis applied uniformly to Executive as to other senior executives of the Company.

(t) "Term" shall have the meaning set forth in Section 2.

2. Employment Term. The Company hereby continues to employ Executive, and Executive hereby accepts continued employment, under the terms and conditions hereof, for the period (the "Term") beginning on the Effective Date and terminating upon the earlier of (i) the fifth anniversary of the Effective Date (the "Initial Term") and (ii) the Date of Termination as defined in Section 1(j). The Company may, in its sole discretion, extend the term of this Agreement for additional one (1)-year periods. If the Company fails to provide Executive with at least one hundred eighty (180) days' notice prior to the end of the Initial Term or any extension thereof of the Company's intent to not renew this Agreement (the "Non-renewal Notice"), the Initial Term or any previous extension thereof shall be extended one day for each day past the one hundred eightieth (180th) day prior to the end of the Initial Term or any extension thereof on which a Non-renewal Notice is not provided; provided that, if the Company fails to provide any Non-renewal Notice and does not extend the term of this Agreement as of the last day of the Initial Term or any extension thereof, the Non-renewal Notice shall be deemed to have been given to Executive on the last day of the term of this Agreement.

3. Position and Duties.

(a) During the Term, Executive shall serve as the President and Chief Operating Officer of the Company; shall have the authorities, duties and responsibilities customarily exercised by an individual serving in those positions at an entity of the size and nature of the Company; shall be assigned no duties or responsibilities that are materially inconsistent with, or that materially impair his ability to discharge, the foregoing duties and responsibilities; shall have such additional duties and responsibilities (including service with affiliates of the Company) reasonably consistent with the foregoing, as may from time to time reasonably be assigned to him by the Chief Executive Officer.

(b) During the Term, Executive shall devote substantially all of his business time and efforts to the business and affairs of the Company. However, nothing in this Agreement shall preclude Executive from: (i) serving on the boards of a reasonable number of business entities, trade associations and charitable organizations, (ii) engaging in charitable activities and community affairs, (iii) accepting and fulfilling a reasonable number of speaking engagements, and (iv) managing his personal investments and affairs; provided that such activities do not, either individually or in the aggregate, interfere with the proper performance of his duties and responsibilities hereunder; create a conflict of interest; or violate any provision of this Agreement; and provided further that service on the board of any business entity must be approved in advance by the Board.

4. Place of Performance. During the Term, Executive's primary office and principal workplace shall be the Corporate Office, except for necessary travel on the Company's business. The Parties acknowledge and Executive agrees that Executive is expected to commute to the Corporate Office from his principal or secondary residence whether inside or outside of the metropolitan area or areas in which the Corporate Office is located.

5. Annual Base Salary. During the Term and beginning on the Effective Date, Executive shall receive a base salary at a rate not less than $1,500,000 per annum (the "Annual Base Salary"), paid in accordance with the Company's general payroll practices for executives, but no less frequently than monthly. The Annual Base Salary shall compensate Executive for any position in or directorship of a Company subsidiary or affiliate that Executive holds. No less frequently than annually during the Term, the Committee, on advice of the Company's Chief Executive Officer, shall review the rate of Annual Base Salary payable to Executive, and may, in its discretion, increase the rate of Annual Base Salary payable hereunder; provided, however, that any increased rate shall thereafter be the rate of "Annual Base Salary" hereunder.

6. Bonus. Except as otherwise provided for herein, for each fiscal year or other period consistent with the Company's then-applicable normal employment practices during which Executive is employed hereunder on the last day (the "Bonus Year"), Executive shall be eligible to receive a bonus with a target amount not less than 200% of Executive's Annual Base Salary (the "Target Bonus"), with the actual bonus payout depending on the achievement of levels of performance for that year (the "Bonus") pursuant to, and as set forth in, the terms of the Company's Executive Bonus Plan as it may be amended from time to time, plus such other bonus payments, if any, as shall be determined by the Committee in its sole discretion, with such bonuses being paid on or before March 15 of the calendar year next following the Bonus Year.

7. Benefits. Executive shall be entitled to receive such benefits and to participate in such employee group benefit plans, including life, health and disability insurance policies, and financial planning services, and other perquisites and plans as are generally provided by the Company to its other senior executives in accordance with the plans, practices and programs of the Company, as amended and in effect from time to time. In addition, Executive shall have the right during the Term to use the Company's jet aircraft for personal purposes for up to eighty (80) flight hours per calendar year (without carryover), provided in each case that such aircraft has not already been scheduled for use for Company business. The Company will report taxable income to Executive in respect of personal use of such aircraft as required by law.

8. Expenses.

(a) The Company shall promptly reimburse Executive for all reasonable and necessary expenses incurred by Executive in connection with the performance of Executive's duties as an employee of the Company. Such reimbursement is subject to the submission to the Company by Executive of appropriate documentation and/or vouchers in accordance with the customary procedures of the Company for expense reimbursement, as such procedures may be revised by the Company from time to time hereafter.

(b) The Company will, not later than thirty (30) calendar days after presentation of an invoice for fees and charges together with customary supporting documentation, reimburse Executive for his legal fees and other charges that he incurs in connection with the drafting, negotiation and implementation of this Agreement, in an amount not to exceed $50,000.

9. Vacations. Executive shall be entitled to paid vacation in accordance with the Company's vacation policy as in effect from time to time, provided that, in no event shall Executive be entitled to less than four (4) weeks of paid vacation per calendar year. Executive shall also be entitled to paid holidays and personal days in accordance with the Company's practice with respect to same as in effect from time to time.

10. Termination.

(a) Executive's employment hereunder may be terminated by the Company, on the one hand, or Executive, on the other hand, as applicable, without any breach of this Agreement, under the following circumstances:

(i) Death. Executive's employment hereunder shall automatically terminate upon Executive's death.

(ii) Disability. If Executive has incurred a Disability, the Company may give Executive written notice of its intention to terminate Executive's employment. In such event, Executive's employment with the Company shall terminate effective on the fourteenth (14th) calendar day after delivery

of such notice to Executive; provided that, within the fourteen (14) calendar days after such delivery, Executive shall not have returned to full time performance of Executive's duties. Executive may provide notice to the Company of Executive's resignation on account of a Disability at any time.

(iii) Cause. The Company may terminate Executive's employment hereunder for Cause effectively immediately upon delivery of notice to Executive, after complying with any procedural requirements set forth in Section 1(d).

(iv) Good Reason. Executive may terminate Executive's employment herein with Good Reason upon (A) satisfaction of any advance notice and other procedural requirements set forth in Section 1(o) for any termination following an event described in any of Sections 1(o)(i) through (v), or (B) at least thirty (30) calendar days' advance written notice by Executive for any termination following an event described in Sections 1(o)(vi) or (vii).

(v) Without Cause. The Company may terminate Executive's employment hereunder without Cause upon at least thirty (30) calendar days' advance written notice to Executive.

(vi) Resignation Without Good Reason. Executive may resign Executive's employment without Good Reason upon at least thirty (30) calendar days' advance written notice to the Company.

(b) Notice of Termination. Any termination of Executive's employment by the Company or by Executive under this Section 10 (other than pursuant to Section 10(a)(i)) shall be communicated by a written notice (the "Notice of Termination") to the other Party hereto, indicating the specific termination provision in this Agreement relied upon, setting forth in reasonable detail any facts and circumstances claimed to provide a basis for termination of Executive's employment under the provision so indicated, and specifying a Date of Termination, which notice shall be delivered within the applicable time periods set forth in subsections 10(a)(ii)-(vi) (the "Notice Period"); provided that the Company may earlier terminate Executive's employment during such Notice Period and pay to Executive all Annual Base Salary, benefits and other rights due to Executive under this Agreement during such Notice Period (as if Executive continued employment) instead of employing Executive during such Notice Period.

(c) Resignation from Representational Capacities. Executive hereby acknowledges and agrees that upon Executive's termination of employment with the Company for whatever reason, Executive shall be deemed to have, and shall have in fact, effectively resigned from all executive, director, offices, or other positions with the Company or its affiliates at the time of such termination of employment, and shall return all property owned by the Company and in Executive's possession, including all hardware, files and documents, at that time. Nothing in this Agreement or elsewhere shall prevent Executive from retaining and utilizing copies of benefits plans and programs in which he retains an interest or other documents relating to his personal entitlements and obligations, his desk calendars, his rolodex, and the like, or such other records and documents as may reasonably be approved by the Company.

(d) Termination in Connection with Change of Control. If (i) Executive's employment is terminated by the Company without Cause upon, within thirty (30) calendar days before, or within thirteen (13) months after, a Change of Control, or prior to a Change of Control at the request of a prospective purchaser whose proposed purchase would constitute a Change of Control upon its completion, such termination shall be deemed to have occurred immediately before such Change of Control for purposes of Section 11(b) of this Agreement and the Plan, or (ii) Executive's employment terminates for any reason at the end of the Term following the delivery or deemed delivery to Executive of a Non-renewal Notice upon,

within thirty (30) calendar days before, or within thirteen (13) months after, a Change of Control, or prior to a Change of Control at the request of such a prospective purchaser, such termination shall be deemed to be by the Company without Cause and shall be deemed to have occurred immediately before such Change of Control for purposes of Section 11(b) of this Agreement and the Plan.

11. Termination Pay.

(a) Effective upon the termination of Executive's employment, the Company will be obligated to pay Executive (or, in the event of Executive's death, Executive's designated beneficiary as defined below) only such compensation as is provided in this Section 11, except to the extent otherwise provided for in any Company stock incentive, stock option or cash award plan (including, among others, the Plan and the award agreements applicable thereunder). For purposes of this Section 11, Executive's designated beneficiary will be such individual beneficiary or trust, located at such address, as Executive may designate by notice to the Company from time to time or, if Executive fails to give notice to the Company of such a beneficiary, Executive's estate. Notwithstanding the preceding sentence, the Company will have no duty, in any circumstances, to attempt to open an estate on behalf of Executive, to determine whether any beneficiary designated by Executive is alive or to ascertain the address of any such beneficiary, to determine the existence of any trust, to determine whether any person purporting to act as Executive's personal representative (or the trustee of a trust established by Executive) is duly authorized to act in that capacity, or to locate or attempt to locate any beneficiary, personal representative, or trustee.

(b) Termination by Executive with Good Reason or by Company without Cause. If prior to expiration of the Term, Executive terminates his employment with Good Reason, or if the Company terminates Executive's employment other than for Cause and other than for death or Disability, Executive will be entitled to receive: (i) all Annual Base Salary earned and duly payable for periods ending on or prior to the Date of Termination but unpaid as of the Date of Termination and all accrued but unused vacation days at his per-business-day rate of Annual Base Salary in effect as of the Date of Termination, which amounts shall be paid in cash in a lump sum no later than ten (10) business days following the Date of Termination; (ii) all reasonable expenses incurred by Executive through the Date of Termination that are reimbursable in accordance with Section 8, which amount shall be paid in cash within thirty (30) calendar days after the submission by Executive of receipts; and (iii) all Bonuses earned and duly payable for periods ending on or prior to the Date of Termination but unpaid as of the Date of Termination, which amounts shall be paid in cash in a lump sum no later than sixty (60) calendar days following the Date of Termination (such amounts in clauses (i), (ii) and (iii) together, the "Accrued Obligations"). If Executive signs and delivers to the Company and does not (within the applicable revocation period) revoke the Release (as defined in Section 11(h)) within sixty (60) calendar days following the Date of Termination, Executive shall also be entitled to receive the following payments and benefits in consideration for Executive abiding by the obligations set forth in Sections 13, 14 and 15:

(A) an amount equal to 2.5 times the sum of Executive's (x) Annual Base Salary and (y) Target Bonus for the calendar year in which the Date of Termination occurs, which amount shall (subject to Section 32(a)) be paid in substantially equal installments in accordance with the Company's normal payroll practices in effect from time to time commencing with the first payroll date more than sixty (60) calendar days following the Date of Termination and ending twenty-four (24) months and sixty (60) days following the Date of Termination; provided that, if a Change of Control occurs during the twenty-four (24) month period after the Date of Termination (or is deemed pursuant to Section 10(d) to have occurred immediately after such Date of Termination) and such Change of Control qualifies

either as a "change in the ownership or effective control" of the Company or a "change in the ownership of a substantial portion of the assets" of the Company within the meaning of Section 409A of the Code, any amounts remaining payable to Executive hereunder shall be paid in a single lump sum immediately upon such Change of Control;

(B) a Pro-Rata Bonus payable at the time bonuses granted for the year in which the Date of Termination occurs are paid to other senior executives of the Company;

(C) a lump sum payment (in an amount net of any taxes deducted and other required withholdings) equal to thirty (30) times the monthly cost (as of the Date of Termination) for Executive to receive continued coverage under COBRA for health, dental and vision benefits then being provided for Executive at the Company's cost on the Date of Termination. This amount will be paid on the first payroll date immediately following the thirty (30)-calendar-day anniversary of the Date of Termination and will not take into account increases in coverage costs after the Date of Termination;

(D) if the Date of Termination occurs prior to a Change in Control and Executive holds, immediately prior to his termination, unvested stock options granted as of June 17, 2016 and/or July 25, 2016 ("Options") which forfeit upon such termination in accordance with their terms, a cash payment equal to (I) the excess, if any, of the "Fair Market Value" of the "Shares" on the Date of Termination over the "Exercise Price per Share," multiplied by (II) the number of "Deemed Termination Eligible Options" (as defined in this paragraph). "Deemed Termination Eligible Options" means the sum of (in each case, rounded to the nearest whole number) (x) as to unvested Options which would have become or became "Eligible Options" on June 17, 2019, the product of (i) the number of such unvested Options as to which the "Applicable Value" (as defined in this paragraph) equals or exceeds the applicable "Measurement Standard," multiplied by (ii) a fraction, not greater than one, the numerator of which is the number of "Worked Days" (as defined in this paragraph), and the denominator of which is the number of days from June 17, 2016 through June 17, 2019 (1,096 days), plus (y) as to unvested Options which would have become or became "Eligible Options" on June 17, 2020, the product of (i) the number of such unvested Options as to which the "Applicable Value" equals or exceeds the applicable "Measurement Standard," multiplied by (ii) a fraction, not greater than one, the numerator of which is the number of Worked Days, and the denominator of which is the number of days from June 17, 2016 through June 17, 2020 (1,462 days), plus (z) as to unvested Options which would have become or became "Eligible Options" on June 17, 2021, the product of (i) the number of such unvested Options as to which the "Applicable Value" equals or exceeds the applicable "Measurement Standard," multiplied by (ii) a fraction, not greater than one, the numerator of which is the number of Worked Days, and the denominator of which is the number of days from June 17, 2016 through June 17, 2021 (1,827 days). "Applicable Value" means the average of the per-share closing price of a "Share" as reported on the principal exchange on which the "Shares" are listed for trading for the sixty (60) consecutive trading days preceding the Date of Termination. "Worked Days" means the number of days from June 17, 2016 through the Date of Termination. Each quoted term in this paragraph (D) and not otherwise defined has the meaning set forth in the Performance-Vesting Nonqualified Stock Option Agreements between the Company and Executive dated as of June 17, 2016

and July 25, 2016. The payment under this paragraph (D), if any, shall be made on the first payroll date more than sixty (60) calendar days following the Date of Termination;

(E) if the Date of Termination occurs prior to a Change in Control and Executive holds, immediately prior to his termination, unvested restricted stock units granted as of June 17, 2016 and/or July 25, 2016 ("RSUs") which forfeit upon such termination in accordance with their terms, a cash payment equal to (I) the "Fair Market Value" of the "Shares" on the Date of Termination, multiplied by (II) the number of "Deemed Termination Eligible RSUs" (as defined in this paragraph). "Deemed Termination Eligible RSUs" means the sum of (in each case, rounded to the nearest whole number) (x) as to unvested RSUs which would have become or became "Eligible RSUs" on June 17, 2019, the product of (i) the number of such unvested RSUs as to which the "Applicable Value" (as defined in paragraph (D) immediately above) equals or exceeds the applicable "Measurement Standard," multiplied by (ii) a fraction, not greater than one, the numerator of which is the number of "Worked Days" (as defined in paragraph (D) immediately above), and the denominator of which is the number of days from June 17, 2016 through June 17, 2019 (1,096 days), plus (y) as to unvested RSUs which would have become or became "Eligible RSUs" on June 17, 2020, the product of (i) the number of such unvested RSUs as to which the "Applicable Value" equals or exceeds the applicable "Measurement Standard," multiplied by (ii) a fraction, not greater than one, the numerator of which is the number of Worked Days, and the denominator of which is the number of days from June 17, 2016 through June 17, 2020 (1,462 days), plus (z) as to unvested RSUs which would have become or became "Eligible Options" on June 17, 2021, the product of (i) the number of such unvested RSUs as to which the "Applicable Value" equals or exceeds the applicable "Measurement Standard," multiplied by (ii) a fraction, not greater than one, the numerator of which is the number of Worked Days, and the denominator of which is the number of days from June 17, 2016 through June 17, 2021 (1,827 days). Each quoted term in this paragraph (E) and not otherwise defined has the meaning set forth in the Performance-Vesting Restricted Stock Unit Agreements between the Company and Executive dated as of June 17, 2016 and July 25, 2016. The payment under this paragraph (E), if any, shall be made on the first payroll date more than sixty (60) calendar days following the Date of Termination; and

(F) provide for up to twelve (12) months, or until Executive obtains new employment if sooner, executive-level outplacement services (which provides as part of the outplacement services the use of an office and secretarial support as near as reasonably practicable to Executive's residence).

(c) No Mitigation. Executive shall not be required to mitigate the amount of any payments provided in this Section 11 by seeking other employment or otherwise, nor shall the amount of any payment provided for in this Section 11 be reduced by any compensation earned by Executive as a result of employment by another company or business, or by profits earned by Executive from any other source at any time before or after the Date of Termination.

(d) Termination by Executive without Good Reason or by Company for Cause. If, prior to the expiration of the Term, Executive terminates Executive's employment without Good Reason or if the Company terminates Executive's employment for Cause, Executive shall be entitled to receive the Accrued

Obligations at the times set forth in Sections 11(b)(i), (ii) and (iii), respectively, and Executive shall be entitled to no other compensation, bonus, payments or benefits except as expressly provided in this Section 11(d) or Section 11(g) below.

(e) Termination by Executive Following the Expiration of the Initial Term. If Executive terminates Executive's employment for any reason in 2021 following the expiration of the Initial Term, Executive shall be entitled to receive (i) the Accrued Obligations at the times set forth in Sections 11(b)(i), (ii) and (iii), respectively, and (ii) a Pro-Rata Bonus, which shall be payable at the time bonuses granted for the year in which the Date of Termination occurs are paid to other senior executives of the Company. Executive shall be entitled to no other compensation, bonus, payments or benefits except as expressly provided in this Section 11(e) or Section 11(g).

(f) Termination upon Disability or Death. If Executive's employment shall terminate by reason of Executive's Disability (pursuant to Section 10(a)(ii)) or death (pursuant to Section 10(a)(i)), the Company shall pay to Executive or Executive's estate (as applicable) (I) the Accrued Obligations at the times set forth in Sections 11(b)(i), (ii) and (iii), respectively, (II) a Pro-Rata Bonus payable at the time bonuses granted for the year in which the Date of Termination occurs are paid to other senior executives of the Company, and (III) if such death or Disability occurs prior to a Change in Control, the payments, if any, described in Sections 11(b)(D) and (E). In the case of Disability, (x) if there is a period of time during which Executive is not being paid Annual Base Salary and not receiving long-term disability insurance payments, the Company shall (subject to Section 32(a)) make interim payments to Executive equal to such unpaid disability insurance payments until the commencement of disability insurance payments, and (y) the payments described in clause (III) of the preceding sentence are subject to Executive signing and delivering to the Company and not (within the applicable revocation period) revoking the Release within sixty (60) calendar days following the Date of Termination, and abiding by the obligations set forth in Sections 13, 14 and 15.

(g) Benefits on Any Termination. On any termination of Executive's employment hereunder, he shall be entitled to other or additional benefits in accordance with the then applicable terms of applicable plans, programs, corporate governance documents, agreements and arrangements of the Company and its affiliates (excluding any such plans, programs, corporate governance documents, agreements and arrangements of the Company and its affiliates providing for severance payments and/or benefits) (collectively, "Company Arrangements").

(h) Conditions to Payments. Any and all amounts payable and benefits or additional rights provided pursuant to Sections 11(b)(A)-(F) and 11(f)(first sentence, clause (III)) shall be paid only if Executive signs and delivers to the Company and does not (within the applicable revocation period) revoke a general release of claims in favor of the Company, its affiliates, and their respective successors, assigns, officers, directors and representatives in substantially the form attached hereto as Exhibit A hereto (the "Release") within no later than sixty (60) calendar days following the Date of Termination. If Executive does not timely sign and deliver such Release to the Company, or if Executive timely revokes such Release, Executive hereby acknowledges and agrees that he shall forfeit any and all right to any and all amounts payable and benefits or additional rights provided pursuant to Sections 11(b)(A)-(F) and 11(f)(first sentence, clause (III)).

(i) Survival. Except as otherwise set forth in this Agreement, the respective rights and obligations of the Parties under this Agreement shall survive any termination of Executive's employment.

12. Excess Parachute Payment.

EXHIBIT A

(a) Anything in this Agreement or the Plan to the contrary notwithstanding, to the extent that any payment, distribution or acceleration of vesting to or for the benefit of Executive by the Company (within the meaning of Section 280G of the Code and the regulations thereunder), whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise (the "Total Payments"), is or will be subject to the excise tax imposed under Section 4999 of the Code (the "Excise Tax"), then the Total Payments shall be reduced (but not below zero) to the Safe Harbor Amount (as defined below) if and to the extent that a reduction in the Total Payments would result in Executive retaining a larger amount, on an after-tax basis (taking into account federal, state and local income and employment taxes and the Excise Tax), than if Executive received the entire amount of such Total Payments in accordance with their existing terms (taking into account federal, state, and local income and employment taxes and the Excise Tax). For purposes of this Agreement, the term "Safe Harbor Amount" means the largest portion of the Total Payments that would result in no portion of the Total Payments being subject to the Excise Tax. To effectuate the foregoing, the Company shall reduce or eliminate the Total Payments by first reducing or eliminating the portion of the Total Payments which are payable in cash and then by reducing or eliminating non-cash payments, in each case, starting with the payments to be made farthest in time from the Determination (as defined below).

(b) The determination of whether the Total Payments shall be reduced as provided in Section 12(a) and the amount of such reduction shall be made at the Company's expense by an accounting firm selected by Company from among the ten (10) largest accounting firms in the United States or by qualified independent tax counsel (the "Determining Party"); provided that Executive shall be given advance notice of the Determining Party selected by the Company, and shall have the opportunity to reject the selection, within two (2) business days of being notified of the selection, on the basis of that Determining Party's having a conflict of interest or other reasonable basis, in which case the Company shall select an alternative auditing firm among the ten largest accounting firms in the United States or alternative independent qualified tax counsel, which shall become the Determining Party. Such Determining Party shall provide its determination (the "Determination"), together with detailed supporting calculations and documentation to the Company and Executive, within ten (10) business days of the termination of Executive's employment or at such other time mutually agreed by the Company and Executive. If the Determining Party determines that no Excise Tax is payable by Executive with respect to the Total Payments, it shall furnish Executive with an opinion reasonably acceptable to Executive that no Excise Tax will be imposed with respect to any such payments and, absent manifest error, such Determination shall be binding, final and conclusive upon the Company and Executive. If the Determining Party determines that an Excise Tax would be payable, the Company shall have the right to accept the Determination as to the extent of the reduction, if any, pursuant to Section 12(a), or to have such Determination reviewed by another accounting firm selected by the Company, at the Company's expense. If the two accounting firms do not agree, a third accounting firm shall be jointly chosen by Executive and the Company, in which case the determination of such third accounting firm shall be binding, final and conclusive upon the Company and Executive.

(c) If, notwithstanding any reduction described in this Section 12, the Internal Revenue Service ("IRS") determines that Executive is liable for the Excise Tax as a result of the receipt of any of the Total Payments or otherwise, then Executive shall be obligated to pay back to the Company, within thirty (30) calendar days after a final IRS determination or in the event that Executive challenges the final IRS determination, a final judicial determination, a portion of the Total Payments equal to the "Repayment Amount." The "Repayment Amount" with respect to the payment of benefits shall be the smallest such amount, if any, as shall be required to be paid to the Company so that Executive's net after-tax proceeds with respect to the Total Payments (after taking into account the payment of the Excise Tax and all other applicable taxes imposed on the Payment) shall be maximized. The Repayment Amount shall be zero if a Repayment Amount of more than zero would not result in Executive's net after-tax proceeds with respect

to the Total Payments being maximized. If the Excise Tax is not eliminated pursuant to this Section 12(c), Executive shall pay the Excise Tax.

(d) Notwithstanding any other provision of this Section 12, if (i) there is a reduction in the Total Payments as described in this Section 12, (ii) the IRS later determines that Executive is liable for the Excise Tax, the payment of which would result in the maximization of Executive's net after-tax proceeds (calculated as if Executive's benefits had not previously been reduced), and (iii) Executive pays the Excise Tax, then the Company shall pay to Executive those payments or benefits which were reduced pursuant to this Section 12 as soon as administratively possible after Executive pays the Excise Tax (but not later than March 15 following the calendar year of the IRS determination) so that Executive's net after-tax proceeds with respect to the Total Payments are maximized.

(e) To the extent requested by Executive, the Company shall cooperate with Executive in good faith in valuing, and the Determining Party shall take into account the value of, services provided or to be provided by Executive (including, without limitation, Executive's agreeing to refrain from performing services pursuant to a covenant not to compete or similar covenant, before, on or after the date of a change in ownership or control of the Company (within the meaning of Q&A-2(b) of the final regulations under Section 280G of the Code), such that payments in respect of such services may be considered reasonable compensation within the meaning of Q&A-9 and Q&A-40 to Q&A-44 of the final regulations under Section 280G of the Code and/or exempt from the definition of the term "parachute payment" within the meaning of Q&A-2(a) of the final regulations under Section 280G of the Code in accordance with Q&A-5(a) of the final regulations under Section 280G of the Code.

13. Competition/Confidentiality.

(a) Acknowledgments by Executive. Executive acknowledges that: (i) on and following the Employment Effective Date and through the Term and as a part of Executive's employment, Executive has been and will be afforded access to Confidential Information (as defined below); (ii) public disclosure of such Confidential Information could have an adverse effect on the Company and its business; (iii) because Executive possesses substantial technical expertise and skill with respect to the Company's business, the Company desires to obtain exclusive ownership of each invention by Executive while Executive is employed by the Company, and the Company will be at a substantial competitive disadvantage if it fails to acquire exclusive ownership of each such invention by Executive; and (iv) the provisions of this Section 13 are reasonable and necessary to prevent the improper use or disclosure of Confidential Information and to provide the Company with exclusive ownership of all inventions and works made or created by Executive.

(b) Confidential Information.

(i) Executive acknowledges that on and following the Employment Effective Date and through the Term Executive has had and will have access to and may obtain, develop, or learn of Confidential Information (as defined below) under and pursuant to a relationship of trust and confidence. Executive shall hold such Confidential Information in strictest confidence and never at any time, during or after Executive's employment terminates, directly or indirectly use for Executive's own benefit or otherwise (except in connection with the performance of any duties as an employee hereunder) any Confidential Information, or divulge, reveal, disclose or communicate any Confidential Information to any unauthorized person or entity in any manner whatsoever.

(ii) As used in this Agreement, the term "Confidential Information" shall include, but not be limited to, any of the following information relating to the Company learned by Executive on

and following the Employment Effective Date and through the Term or as a result of Executive's employment with the Company:

(A) information regarding the Company's business proposals, manner of the Company's operations, and methods of selling or pricing any products or services;

(B) the identity of persons or entities actually conducting or considering conducting business with the Company, and any information in any form relating to such persons or entities and their relationship or dealings with the Company or its affiliates;

(C) any trade secret or confidential information of or concerning any business operation or business relationship;

(D) computer databases, software programs and information relating to the nature of the hardware or software and how said hardware or software is used in combination or alone;

(E) information concerning Company personnel, confidential financial information, customer or customer prospect information, information concerning subscribers, subscriber and customer lists and data, methods and formulas for estimating costs and setting prices, engineering design standards, testing procedures, research results (such as marketing surveys, programming trials or product trials), cost data (such as billing, equipment and programming cost projection models), compensation information and models, business or marketing plans or strategies, deal or business terms, budgets, vendor names, programming operations, product names, information on proposed acquisitions or dispositions, actual performance compared to budgeted performance, long range plans, internal financial information (including but not limited to financial and operating results for certain offices, divisions, departments, and key market areas that are not disclosed to the public in such form), results of internal analyses, computer programs and programming information, techniques and designs, and trade secrets;

(F) information concerning the Company's employees, officers, directors and shareholders; and

(G) any other trade secret or information of a confidential or proprietary nature.

(iii) Executive shall not make or use any notes or memoranda relating to any Confidential Information except for uses reasonably expected by Executive to be for the benefit of the Company, and will, at the Company's request, return each original and every copy of any and all notes, memoranda, correspondence, diagrams or other records, in written or other form, that Executive may at any time have within his possession or control that contain any Confidential Information.

(iv) Notwithstanding the foregoing, Confidential Information shall not include information that has come within the public domain through no fault of or action by Executive or that has become rightfully available to Executive on a non-confidential basis from any third party, the disclosure of

which to Executive does not violate any contractual or legal obligations that such third party has to the Company or its affiliates with respect to such Confidential Information. None of the foregoing obligations and restrictions applies to any part of the Confidential Information that Executive demonstrates was or became generally available to the public other than as a result of a disclosure by Executive or by any other person bound by a confidentiality obligation to the Company in respect of such Confidential Information. Further, nothing herein shall prohibit Executive from using Confidential Information to the extent necessary to exercise any legally protected whistleblower rights (including pursuant to Rule 21F under the Exchange Act).

(v) Executive will not remove from the Company's premises (except to the extent such removal is for purposes of the performance of Executive's duties at home or while traveling, or except as otherwise specifically authorized by the Company) any Company document, record, notebook, plan, model, component, device, or computer software or code, whether embodied in a disk or in any other form (collectively, the "Proprietary Items"). Executive recognizes that, as between the Company and Executive, all of the Proprietary Items, whether or not developed by Executive, are the exclusive property of the Company. Upon termination of Executive's employment by either Party, or upon the request of the Company on and following the Effective Date and through the Term, Executive will return to the Company all of the Proprietary Items in Executive's possession or subject to Executive's control, including all equipment (*e.g.*, laptop computers, cell phone, portable e-mail devices, etc.), documents, files and data, and Executive shall not retain any copies, abstracts, sketches, or other physical embodiment of any such Proprietary Items.

14. Proprietary Developments.

(a) Developments. Any and all inventions, products, discoveries, improvements, processes, methods, computer software programs, models, techniques, or formulae (collectively, hereinafter referred to as "Developments"), made, conceived, developed, or created by Executive (alone or in conjunction with others, during regular work hours or otherwise) during Executive's employment which may be directly or indirectly useful in, or relate to, the business conducted or to be conducted by the Company will be promptly disclosed by Executive to the Company and shall be the Company's exclusive property. The term "Developments" shall not be deemed to include inventions, products, discoveries, improvements, processes, methods, computer software programs, models, techniques, or formulae which were in the possession of Executive prior to the Employment Effective Date. Executive hereby transfers and assigns to the Company all proprietary rights that Executive may have or acquire in any Developments and Executive waives any other special right which Executive may have or accrue therein. Executive will execute any documents and take any actions that may be required, in the reasonable determination of the Company's counsel, to effect and confirm such assignment, transfer and waiver, to direct the issuance of patents, trademarks, or copyrights to the Company with respect to such Developments as are to be the Company's exclusive property or to vest in the Company title to such Developments; provided, however, that the expense of securing any patent, trademark or copyright shall be borne by Company. The Parties agree that Developments shall constitute Confidential Information.

(b) Work Made for Hire. Any work performed by Executive during Executive's employment with the Company shall be considered a "Work Made for Hire" as defined in the U.S. Copyright laws, and shall be owned by and for the express benefit of the Company. In the event it should be established that such work does not qualify as a Work Made for Hire, Executive agrees to and does hereby assign to the Company all of Executive's right, title, and interest in such work product including, but not limited to, all copyrights and other proprietary rights.

15. Non-Competition and Non-Interference.

(a) Acknowledgments by Executive. Executive acknowledges and agrees that: (i) the services to be performed by Executive under this Agreement are of a special, unique, unusual, extraordinary, and intellectual character; (ii) the Company competes with other businesses that are or could be located in any part of the world; (iii) the provisions of this Section 15 are reasonable and necessary to protect the Company's business and lawful protectable interests, and do not impair Executive's ability to earn a living; and (iv) the Company has agreed to provide the severance and other benefits set forth in Sections 11(b)(A)-(F) and 11(f) (first sentence, clause (III)) in consideration for Executive's abiding by the obligations under this Section 15 and but for Executive's agreement to comply with such obligations, the Company would not have agreed to provide such severance and other benefits.

(b) Covenants of Executive. For purposes of this Section 15, the term "Restricted Period" shall mean the period commencing on the Effective Date and terminating on the first anniversary (or, in the case of Section 15(b)(iii), the second anniversary) of the Date of Termination. In consideration of the acknowledgments by Executive, and in consideration of the compensation and benefits to be paid or provided to Executive by the Company, Executive covenants and agrees that during the Restricted Period, Executive will not, directly or indirectly, for Executive's own benefit or for the benefit of any other person or entity other than the Company:

(i) in the United States or any other country or territory where the Company then conducts its business: engage in, operate, finance, control or be employed by a "Competitive Business" (as defined below); serve as an officer or director of a Competitive Business (regardless of where Executive then lives or conducts such activities); perform any work as an employee, consultant (other than as a member of a professional consultancy, law firm, accounting firm or similar professional enterprise that has been retained by the Competitive Business and where Executive has no direct role in such professional consultancy and maintains the confidentiality of all information acquired by Executive during his or her employment with the Company), contractor, or in any other capacity with, a Competitive Business; directly or indirectly invest or own any interest in a Competitive Business (regardless of where Executive then lives or conducts such activities); or directly or indirectly provide any services or advice to any business, person or entity who or which is engaged in a Competitive Business (other than as a member of a professional consultancy, law firm, accounting firm or similar professional enterprise that has been retained by the Competitive Business and where Executive has no direct role in such professional consultancy and maintains the confidentiality of all information acquired by Executive during his or her employment with the Company). A "Competitive Business" is any business, person or entity who or which, anywhere within that part of the United States, or that part of any other country or territory, where the Company conducts business (A) owns or operates a cable television system; (B) provides direct television or any satellite based, telephone system based, internet based or wireless system for delivering television, music or other entertainment programming (other than as an ancillary service, such as cellular telephone providers); (C) provides telephony services using any wired connection or fixed (as opposed to mobile) wireless application; (D) provides data or internet access services; (E) offers, provides, markets or sells any service or product of a type that is offered or marketed by or directly competitive with a service or product offered or marketed by the Company at the time Executive's employment terminates and, in the case of this clause (E), which produced greater than ten percent (10%) of the Company's revenues in the calendar year immediately prior to the year in which employment terminated; or (F) who or which in any case is preparing or planning to do any of the activities described in the preceding clauses (A) through (E). The provisions of this Section 15 shall not be construed or applied (I) so as to prohibit Executive from owning not more than five percent (5%) of any class of securities that is publicly traded on any national or regional securities exchange, as long as Executive's investment is passive and Executive does not lend or provide any services or advice to such business or otherwise violate the terms of this Agreement in connection

with such investment; or (II) so as to prohibit Executive from working as an employee in the cable television business for a company/business that owns or operates cable television franchises (by way of example as of the Effective Date only, Altice, Cox or Comcast), provided that the company/business is not providing cable services in any political subdivision/ geographic area where the Company has a franchise or provides cable services (other than nominal overlaps of service areas) and the company/business is otherwise not engaged in a Competitive Business, and provided that Executive does not otherwise violate the terms of this Agreement in connection with that work; and provided further that nothing in this Section 15(b)(i) shall abrogate or affect any provision regarding the effect of Executive's working for a company/business that owns or operates cable television franchises (including, as of the Effective Date only, Altice, Cox and Comcast) in any stock option or other equity award agreement between Executive and the Company;

(ii) contact, solicit or provide any service in connection with any Competitive Business to any person or entity that was a customer franchisee, or prospective customer of the Company at any time during Executive's employment (a prospective customer being one to whom the Company had made a business proposal within twelve (12) months prior to the time Executive's employment terminated); or directly solicit or encourage any customer, franchisee or subscriber of the Company to purchase any service or product of a type offered by or competitive with any product or service provided by the Company, or to reduce the amount or level of business purchased by such customer, franchisee or subscriber from the Company; or take away or procure for the benefit of any Competitive Business, any business of a type provided by or competitive with a product or service offered by the Company; or

(iii) solicit or recruit for employment, or hire or attempt to hire, any person or persons who are employed by the Company or any of its subsidiaries or affiliates, or who were so employed at any time within a period of six (6) months immediately prior to the Date of Termination, or otherwise interfere with the relationship between any such person and the Company; nor will Executive assist anyone else in recruiting any such employee to work for another company or business or discuss with any such person his or her leaving the employ of the Company or engaging in a business activity in competition with the Company. This provision shall not apply to secretarial, clerical, custodial or maintenance employees, nor shall it prohibit Executive from providing a personal reference for the person or persons described in this subsection in response to a request for such a personal reference.

If Executive violates any covenant contained in this Section 15, then the term of the covenants in this Section shall be extended by the period of time Executive was in violation of the same.

(c) Provisions Pertaining to the Covenants. Executive recognizes that the existing business of the Company extends to various locations and areas throughout the United States and will extend hereafter to other countries and territories and agrees that the scope of this Section 15 shall extend to any part of the United States, and any other country or territory, where the Company operates or conducts business, or has concrete plans to do so at the time Executive's employment terminates. It is agreed that Executive's services hereunder are special, unique, unusual and extraordinary giving them peculiar value, the loss of which cannot be reasonably or adequately compensated for by damages, and in the event of Executive's breach of this Section, the Company shall be entitled to equitable relief by way of injunction or otherwise in addition to the cessation of payments and benefits hereunder. If any provision of Section 13, 14 or 15 is deemed to be unenforceable by a court (whether because of the subject matter of the provision, the duration of a restriction, the geographic or other scope of a restriction or otherwise), that provision shall not be rendered void but the Parties instead agree that the court shall amend and alter such provision to such lesser degree, time, scope, extent and/or territory as will grant the Company the maximum restriction on Executive's activities permitted by applicable law in such circumstances. The Company's failure to exercise its rights to enforce the provisions of this Agreement shall not be affected by the existence or non-existence

of any other similar agreement for anyone else employed by the Company or by the Company's failure to exercise any of its rights under any such agreement.

(d) Notices. In order to preserve the Company's rights under this Agreement, the Company is authorized to advise any potential or future employer, any third party with whom Executive may become employed or enter into any business or contractual relationship with, and any third party whom Executive may contact for any such purpose, of the existence of this Agreement and its terms, and the Company shall not be liable for doing so.

(e) Injunctive Relief and Additional Remedy. Executive acknowledges that the injury that would be suffered by Company as a result of a breach of the provisions of this Agreement (including any provision of Sections 13, 14 and 15) would be irreparable and that an award of monetary damages to the Company for such a breach would be an inadequate remedy. Consequently, the Company will have the right, in addition to any other rights it may have, to obtain injunctive relief to restrain any breach or threatened breach or otherwise to specifically enforce any provision of this Agreement, and the Company will not be obligated to post bond or other security in seeking such relief. Without limiting the Company's rights under this Section or any other remedies of the Company, in the event of a determination by a court of competent jurisdiction, as to which no further appeal can be taken or as to which the time to appeal has expired, that Executive has willfully breached a material obligation under Section 13, 14 or 15, (i) the Company will have the right to cease making any payments otherwise due to Executive under this Agreement and (ii) Executive will repay to the Company all amounts paid to him under this Agreement on and following the date that such breach first occurred (as determined by the court), including but not limited to the return of any stock and options (and stock purchased through the exercise of options) that first became vested following such date, and the proceeds of the sale of any such stock. Notwithstanding the foregoing, if Executive's breach of a material obligation under Section 13, 14 or 15 is curable, prior to seeking the remedies contemplated by the immediately preceding sentence, the Company shall provide Executive written notice of such breach and Executive shall be given ten (10) business days from receipt of such written notice to cure, provided, that if Executive cures such breach and then breaches again, no further opportunity to cure shall be provided.

(f) Covenants of Sections 13, 14 and 15 are Essential and Independent Covenants. The covenants by Executive in Sections 13, 14 and 15 are essential elements of this Agreement, and without Executive's agreement to comply with such covenants, the Company would not have entered into this Agreement or employed Executive. The Company and Executive have independently consulted their respective counsel and have been advised in all respects concerning the reasonableness and propriety of such covenants, with specific regard to the nature of the business conducted by the Company. Executive's covenants in Sections 13, 14 and 15 are independent covenants and the existence of any claim by Executive against the Company, under this Agreement or otherwise, will not excuse Executive's breach of any covenant in Section 13, 14 or 15. If Executive's employment hereunder is terminated, this Agreement will continue in full force and effect as is necessary or appropriate to enforce the covenants and agreements of Executive in Sections 13, 14 and 15. The Company's right to enforce the covenants in Sections 13, 14 and 15 shall not be adversely affected or limited by the Company's failure to have an agreement with another employee with provisions at least as restrictive as those contained in Section 13, 14 or 15, or by the Company's failure or inability to enforce (or agreement not to enforce) in full the provisions of any other or similar agreement containing one or more restrictions of the type specified in Sections 13, 14 and 15.

16. Representations and Further Agreements.

(a) Executive represents, warrants and covenants to the Company that Executive is knowledgeable and sophisticated as to business matters, including the subject matter of this Agreement, and

that prior to assenting to the terms of this Agreement, or giving the representations and warranties herein, Executive has been given a reasonable time to review it and has consulted with counsel of Executive's choice; and

(b) During Executive's employment with the Company and subsequent to the cessation thereof, Executive will reasonably cooperate with Company, and furnish any and all complete and truthful information, testimony or affidavits in connection with any matter that arose during Executive's employment, that in any way relates to the business or operations of the Company or any of its parent or subsidiary corporations or affiliates, or of which Executive may have any knowledge or involvement; and will consult with and provide information to the Company and its representatives concerning such matters. Executive shall reasonably cooperate with the Company in the protection and enforcement of any intellectual property rights that relate to services performed by Executive for Company, whether under the terms of this Agreement or prior to the execution of this Agreement. This shall include without limitation executing, acknowledging, and delivering to the Company all documents or papers that may be necessary to enable the Company to publish or protect such intellectual property rights. Subsequent to the cessation of Executive's employment with the Company, the Parties will make their best efforts to have such cooperation performed at reasonable times and places and in a manner as not to unreasonably interfere with any other employment in which Executive may then be engaged. Nothing in this Agreement shall be construed or interpreted as requiring Executive to provide any testimony, sworn statement or declaration that is not complete and truthful. If the Company requires Executive to travel outside the metropolitan area in the United States where Executive then resides to provide any testimony or otherwise provide any such assistance, then the Company will reimburse Executive for any reasonable, ordinary and necessary travel and lodging expenses incurred by Executive to do so; provided that Executive submits all documentation required under the Company's standard travel expense reimbursement policies and as otherwise may be required to satisfy any requirements under applicable tax laws for the Company to deduct those expenses. Nothing in this Agreement shall be construed or interpreted as requiring Executive to provide any testimony or affidavit that is not complete and truthful.

(c) The Company represents and warrants that (i) it is fully authorized by action of the Board (and of any other Person or body whose action is required) to enter into this Agreement and to perform its obligations under it, (ii) the execution, delivery and performance of this Agreement by it does not violate any applicable law, regulation, order, judgment or decree or any agreement, arrangement, plan or corporate governance document to which it is a party or by which it is bound, and (iii) upon the execution and delivery of this Agreement by the Parties, this Agreement shall be a valid and binding obligation of the Company, enforceable against it in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally.

17. Mutual Non-Disparagement. Neither the Company nor Executive shall make any oral or written statement about the other Party which is intended or reasonably likely to disparage the other Party, or otherwise degrade the other Party's reputation in the business or legal community or in the telecommunications industry.

18. Foreign Corrupt Practices Act. Executive agrees to comply in all material respects with the applicable provisions of the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"), which provides generally that: under no circumstances will foreign officials, representatives, political parties or holders of public offices be offered, promised or paid any money, remuneration, things of value, or provided any other benefit, direct or indirect, in connection with obtaining or maintaining contracts or orders hereunder. When any representative, employee, agent, or other individual or organization associated with Executive is required to perform any obligation related to or in connection with this Agreement, the substance of this

section shall be imposed upon such person and included in any agreement between Executive and any such person. A material violation by Executive of the provisions of the FCPA shall constitute a material breach of this Agreement and shall entitle the Company to terminate Executive's employment for Cause in accordance with Section 10(a)(iii).

19. Purchases and Sales of the Company's Securities. Executive has read and agrees to comply in all respects with the Company's Policy Regarding the Purchase and Sale of the Company's Securities by Employees (the "Policy"), as the Policy may be amended from time to time. Specifically, and without limitation, Executive agrees that Executive shall not purchase or sell stock in the Company at any time (a) that Executive possesses material non-public information about the Company or any of its businesses; and (b) during any "Trading Blackout Period" as may be determined by the Company as set forth in the Policy from time to time.

21. Withholding. Anything to the contrary notwithstanding, all payments required to be made by the Company hereunder to Executive or his estate or beneficiary shall be subject to the withholding of such amounts, if any, relating to tax and other payroll deductions as the Company may reasonably determine it should withhold pursuant to applicable law or regulation, and other withholding amounts authorized by Executive.

22. Notices. Any written notice required by this Agreement will be deemed provided and delivered to the intended recipient when (a) delivered in person by hand; (b) on the date of transmission, if delivered by confirmed facsimile; (c) three (3) calendar days after being sent via U.S. certified mail, return receipt requested; or (d) the calendar day after being sent via overnight courier, in each case when such notice is properly addressed to the following address and with all postage and similar fees having been paid in advance:

If to the Company: Charter Communications, Inc.
400 Atlantic Street
Stamford, Connecticut 06901
Attention: General Counsel

Facsimile: (203) 564-1377

If to Executive, to the home address and facsimile number of Executive most recently on file in the records of the Company;

Either Party may change the address to which notices, requests, demands and other communications to such Party shall be delivered personally or mailed by giving written notice to the other Party in the manner described above.

23. Binding Effect. This Agreement shall be for the benefit of and binding upon the Parties hereto and their respective heirs, personal representatives, legal representatives, successors and, where applicable, assigns.

24. Entire Agreement. This Agreement contains the entire agreement among the Parties with respect to its specific subject matter and supersedes any prior oral and written communications, agreements and understandings among the Parties concerning the specific subject matter hereof, including, without limitation, the Prior Employment Agreement. This Agreement may not be modified, amended, altered, waived or rescinded in any manner, except by written instrument signed by both of the Parties hereto that expressly refers to the provision of this Agreement that is being modified, amended, altered, waived or

rescinded; provided, however, that the waiver by either Party of a breach or compliance with any provision of this Agreement shall not operate nor be construed as a waiver of any subsequent breach or compliance.

25. Severability. In case any one or more of the provisions of this Agreement shall be held by any court of competent jurisdiction or any arbitrator selected in accordance with the terms hereof to be illegal, invalid or unenforceable in any respect, such provision shall have no force and effect, but such holding shall not affect the legality, validity or enforceability of any other provision of this Agreement; provided that the provisions held illegal, invalid or unenforceable do not reflect or manifest a fundamental benefit bargained for by a Party hereto.

26. Assignment. Without limitation of Executive's right to terminate for Good Reason under Section 10(a)(iv), this Agreement can be assigned by the Company only to a company that controls, is controlled by, or is under common control with the Company and which assumes all of the Company's obligations hereunder. The duties and covenants of Executive under this Agreement, being personal, may not be assigned or delegated except that Executive may assign payments due hereunder to a trust established for the benefit of Executive's family or to Executive's estate or to any partnership or trust entered into by Executive and/or Executive's immediate family members (meaning Executive's spouse and lineal descendants). This Agreement shall be binding in all respects on permissible assignees.

27. Notification. In order to preserve the Company's rights under this Agreement, the Company is authorized to advise any third party with whom Executive may become employed or enter into any business or contractual relationship with, or whom Executive may contact for any such purpose, of the existence of this Agreement and its terms, and the Company shall not be liable for doing so.

28. Choice of Law/Jurisdiction. This Agreement is deemed to be accepted and entered into in Delaware. Executive and the Company intend and hereby acknowledge that jurisdiction over disputes with regard to this Agreement, and over all aspects of the relationship between the Parties, shall be governed by the laws of the State of Delaware without giving effect to its rules governing conflicts of laws. With respect to orders in aid or enforcement of arbitration awards and injunctive relief, venue and jurisdiction are proper in any county in Delaware, and (if federal jurisdiction exists) any United States District Court in Delaware, and the Parties waive all objections to jurisdiction and venue in any such forum and any defense that such forum is not the most convenient forum.

29. Arbitration. Any claim or dispute between the Parties arising out of or relating to this Agreement, any other agreement between the Parties, Executive's employment with the Company, or any termination thereof (collectively, "Covered Claims") shall (except to the extent otherwise provided in Section 15(e) with respect to certain requests for injunctive relief) be resolved by binding confidential arbitration, to be held in Wilmington, Delaware, before a panel of three arbitrators in accordance with the National Rules for Resolution of Employment Disputes of the American Arbitration Association and this Section 29. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Pending the resolution of any Covered Claim, Executive (and his beneficiaries) shall continue to receive all payments and benefits due under this Agreement or otherwise, except to the extent that the arbitrators otherwise provide. The Company shall reimburse Executive for all costs and expenses (including, without limitation, legal, tax and accounting fees) incurred by him in any arbitration under this Section 29, to the extent he substantially prevails in any such arbitration.

30. Section Headings. The section headings contained in this Agreement are for reference purposes only and shall not affect in any manner the meaning or interpretation of this Agreement.

31. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. This Agreement may also be executed by delivery of facsimile or ".pdf" signatures, which shall be effective for all purposes.

32. Section 409A Compliance.

(a) This Agreement is intended to comply with Section 409A of the Code or an exemption thereto, and, to the extent necessary in order to avoid the imposition of a penalty tax on Executive under Section 409A of the Code, payments may only be made under this Agreement upon an event and in a manner permitted by Section 409A of the Code. Any payments or benefits that are provided upon a termination of employment shall, to the extent necessary in order to avoid the imposition of a penalty tax on Executive under Section 409A of the Code, not be provided unless such termination constitutes a "separation from service" within the meaning of Section 409A of the Code. Any payments that qualify for the "short term deferral" exception or another exception under Section 409A of the Code shall be paid under the applicable exception. Notwithstanding anything in this Agreement to the contrary, if Executive is considered a "specified employee" (as defined in Section 409A of the Code), any amounts paid or provided under this Agreement shall, to the extent necessary in order to avoid the imposition of a penalty tax on Executive under Section 409A of the Code, be delayed for six (6) months after Executive's "separation from service" within the meaning of Section 409A of the Code, and the accumulated amounts shall be paid in a lump sum within ten (10) calendar days after the end of the six (6)-month period. If Executive dies during the six (6)-month postponement period prior to the payment of benefits, the amounts the payment of which is deferred on account of Section 409A of the Code shall be paid to the personal representative of Executive's estate within sixty (60) calendar days after the date of Executive's death.

(b) For purposes of Section 409A of the Code, the right to a series of installment payments under this Agreement shall be treated as a right to a series of separate payments. In no event may Executive, directly or indirectly, designate the calendar year of a payment. All reimbursements and in kind benefits provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A of the Code, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during the period of time specified in this Agreement, (ii) the amount of expenses eligible for reimbursement, or in kind benefits provided, during a calendar year may not affect the expenses eligible for reimbursement, or in kind benefits to be provided, in any other calendar year, (iii) the reimbursement of an eligible expense will be made no later than the last calendar day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement or in kind benefits is not subject to liquidation or exchange for another benefit.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first above written.

CHARTER COMMUNICATIONS, INC.

By:	/s/ Paul Marchand
Print Name:	Paul Marchand
Title:	Executive Vice President, Chief Human Resources Officer

EXECUTIVE

/s/ John Bickham

Name: John Bickham

EXHIBIT A

RELEASE

This Release of Claims (this "Release") is entered into as of the "Date of Termination" (as defined in that certain Employment Agreement, dated as of November 2, 2016, to which John Bickham ("Executive") and CHARTER COMMUNICATIONS, INC., a Delaware corporation (the "Company"), are parties, as such agreement is from time to time amended in accordance with its terms (the "Employment Agreement").

1. Release of Claims by Executive.

(a) Pursuant to Section 11(h) of the Employment Agreement, Executive, with the intention of binding himself and his heirs, executors, administrators and assigns (collectively, and together with Executive, the "Executive Releasors"), hereby releases, remises, acquits and forever discharges the Company and each of its subsidiaries and affiliates (the "Company Affiliated Group"), and their past and present directors, employees, agents, attorneys, accountants, representatives, plan fiduciaries, and the successors, predecessors and assigns of each of the foregoing (collectively, and together with the members of the Company Affiliated Group, the "Company Released Parties"), of and from any and all claims, actions, causes of action, complaints, charges, demands, rights, damages, debts, sums of money, accounts, financial obligations, suits, expenses, attorneys' fees and liabilities of whatever kind or nature in law, equity or otherwise, whether accrued, absolute, contingent, unliquidated or otherwise and whether now known or unknown, suspected or unsuspected, that arise out of, or relate in any way to, events occurring on or before the date hereof relating to Executive's employment or the termination of such employment (collectively, "Released Claims") and that Executive, individually or as a member of a class, now has, owns or holds, or has at any time heretofore had, owned or held, against any Company Released Party in any capacity, including any and all Released Claims (i) arising out of or in any way connected with Executive's service to any member of the Company Affiliated Group (or the predecessors thereof) in any capacity (including as an employee, officer or director), or the termination of such service in any such capacity, (ii) for severance or vacation benefits, unpaid wages, salary or incentive payments, (iii) for breach of contract, wrongful discharge, impairment of economic opportunity, defamation, intentional infliction of emotional harm or other tort, (iv) for any violation of applicable federal, state and local labor and employment laws (including all laws concerning unlawful and unfair labor and employment practices) and (v) for employment discrimination under any applicable federal, state or local statute, provision, order or regulation, and including, without limitation, any claim under Title VII of the Civil Rights Act of 1964 ("Title VII"), the Age Discrimination in Employment Act ("ADEA") and any similar or analogous state statute, excepting only that no claim in respect of any of the following rights shall constitute a Released Claim:

(1) any right arising under, or preserved by, this Release or the Employment Agreement;

(2) for avoidance of doubt, any right to indemnification under (i) applicable corporate law, (ii) the by-laws or certificate of incorporation of any Company Released Party, (iii) any other agreement between Executive and a Company Released Party or (iv) as an insured under any director's and officer's liability insurance policy now or previously in force; or

(3) for avoidance of doubt, any claim for benefits under any health, disability, retirement, life insurance or similar employee benefit plan of the Company Affiliated Group.

(b) No Executive Releasor shall file or cause to be filed any action, suit, claim, charge or proceeding with any governmental agency, court or tribunal relating to any Released Claim within the scope of this Section 1 (each, individually, a "Proceeding"), and no Executive Releasor shall participate voluntarily in any Proceeding; provided, however, and subject to the immediately following sentence, nothing set forth herein is intended to or shall interfere with Executive's right to participate in a Proceeding with any appropriate federal, state, or local government agency enforcing discrimination laws, nor shall this Agreement prohibit Executive from cooperating with any such agency in its investigation. Executive waives any right he may have to benefit in any manner from any relief (whether monetary or otherwise) arising out of any Proceeding.

(c) In the event any Proceeding within the scope of this Section 1 is brought by any government agency, putative class representative or other third Party to vindicate any alleged rights of Executive, (i) Executive shall, except to the extent required or compelled by law, legal process or subpoena, refrain from participating, testifying or producing documents therein, and (ii) all damages, inclusive of attorneys' fees, if any, required to be paid to Executive by the Company as a consequence of such Proceeding shall be repaid to the Company by Executive within ten (10) calendar days of his receipt thereof.

(d) The amounts and other benefits set forth in [Sections 11(b)(A)-(F)] [Section 11(f)(first sentence, clause (III))] As applicable. of the Employment Agreement, to which Executive would not otherwise be entitled, are being paid to Executive in return for Executive's execution and non-revocation of this Release and Executive's agreements and covenants contained in the Employment Agreement. Executive acknowledges and agrees that the release of claims set forth in this Section 1 is not to be construed in any way as an admission of any liability whatsoever by any Company Released Party, any such liability being expressly denied.

(e) The release of claims set forth in this Section 1 applies to any relief in respect of any Released Claim of any kind, no matter how called, including wages, back pay, front pay, compensatory damages, liquidated damages, punitive damages, damages for pain or suffering, costs, and attorney's fees and expenses. Executive specifically acknowledges that his acceptance of the terms of the release of claims set forth in this Section 1 is, among other things, a specific waiver of his rights, claims and causes of action under Title VII, ADEA and any state or local law or regulation in respect of discrimination of any kind; provided, however, that nothing herein shall be deemed, nor does anything contained herein purport, to be a waiver of any right or claim or cause of action which by law Executive is not permitted to waive.

2. Voluntary Execution of Release.

BY HIS SIGNATURE BELOW, EXECUTIVE ACKNOWLEDGES THAT:

(a) HE HAS RECEIVED A COPY OF THIS RELEASE AND WAS OFFERED A PERIOD OF TWENTY-ONE (21) DAYS TO REVIEW AND CONSIDER IT;

(b) IF HE SIGNS THIS RELEASE PRIOR TO THE EXPIRATION OF TWENTY-ONE (21) CALENDAR DAYS, HE KNOWINGLY AND VOLUNTARILY WAIVES AND GIVES UP THIS RIGHT OF REVIEW;

(c) HE HAS THE RIGHT TO REVOKE THIS RELEASE FOR A PERIOD OF SEVEN (7) CALENDAR DAYS AFTER HE SIGNS IT BY MAILING OR DELIVERING A WRITTEN NOTICE OF REVOCATION TO THE COMPANY NO LATER THAN THE CLOSE OF BUSINESS ON THE SEVENTH CALENDAR DAY AFTER THE DAY ON WHICH HE SIGNED THIS RELEASE;

(d) THIS RELEASE SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THE FOREGOING SEVEN DAY REVOCATION PERIOD HAS EXPIRED WITHOUT THE RELEASE HAVING BEEN REVOKED;

(e) THIS RELEASE WILL BE FINAL AND BINDING AFTER THE EXPIRATION OF THE FOREGOING REVOCATION PERIOD REFERRED TO IN SECTION 2(c), AND FOLLOWING SUCH REVOCATION PERIOD EXECUTIVE AGREES NOT TO CHALLENGE ITS ENFORCEABILITY;

(f) HE IS AWARE OF HIS RIGHT TO CONSULT AN ATTORNEY, HAS BEEN ADVISED IN WRITING TO CONSULT WITH AN ATTORNEY, AND HAS HAD THE OPPORTUNITY TO CONSULT WITH AN ATTORNEY, IF DESIRED, PRIOR TO SIGNING THIS RELEASE;

(g) NO PROMISE OR INDUCEMENT FOR THIS RELEASE HAS BEEN MADE EXCEPT AS SET FORTH IN THE EMPLOYMENT AGREEMENT AND THIS RELEASE; AND

(h) HE HAS CAREFULLY READ THIS RELEASE, ACKNOWLEDGES THAT HE HAS NOT RELIED ON ANY REPRESENTATION OR STATEMENT, WRITTEN OR ORAL, NOT SET FORTH IN THIS DOCUMENT OR THE EMPLOYMENT AGREEMENT, AND WARRANTS AND REPRESENTS THAT HE IS SIGNING THIS RELEASE KNOWINGLY AND VOLUNTARILY.

3. Miscellaneous.

The provisions of the Employment Agreement relating to representations, successors, notices, amendments/waivers, headings, severability, choice of law, references, arbitration and counterparts/faxed signatures, shall apply to this Release as if set fully forth in full herein, with references in such Sections to “this Agreement” being deemed, as appropriate, to be references to this Release. For avoidance of doubt, this Section 3 has been included in this Release solely for the purpose of avoiding the need to repeat herein the full text of the referenced provisions of the Employment Agreement.

IN WITNESS WHEREOF, Executive has acknowledged, executed and delivered this Release on the date indicated below.

/s/ John Bickham
John Bickham

Date: November 2, 2016

EXHIBIT 10.2

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this "Agreement"), by and among Charter Communications, Inc., a Delaware corporation (the "Company"), and Christopher L. Winfrey ("Executive"), is dated as of November 2, 2016.

RECITALS:

WHEREAS, it is the desire of the Company to assure itself of the continued services of Executive by continuing to engage Executive as its Executive Vice President and Chief Financial Officer and the Executive desires to serve the Company on the terms herein provided;

WHEREAS, Executive and the Company are party to an employment agreement dated and effective as of December 31, 2014 (the "Prior Employment Agreement");

WHEREAS, Executive and the Company (the "Parties") desire to enter into this Agreement, as an amendment and restatement of the Prior Employment Agreement in order for the Company and its affiliates to continue to engage the services of Executive and Executive desires to continue to serve the Company on the terms herein provided; and

WHEREAS, Executive's agreement to the terms and conditions of Sections 13, 14 and 15 are a material and essential condition of Executive's employment with the Company under the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and of the respective covenants and agreements set forth below, the Parties agree as follows:

1. Certain Definitions.

(a) "Annual Base Salary" shall have the meaning set forth in Section 5.

(b) "Board" shall mean the Board of Directors of the Company.

(c) "Bonus" shall have the meaning set forth in Section 6.

(d) The Company shall have "Cause" to terminate Executive's employment hereunder upon:

(i) Executive's willful breach of a material obligation (which, if curable, is not cured within ten (10) business days after the Company provides written notice of such breach) or representation under this Agreement, Executive's willful breach of any fiduciary duty to the Company, which, if curable, is not cured within ten (10) business days after the Company provides written notice of such breach; or any act of fraud or willful and material misrepresentation or concealment upon, to or from the Company or the Board;

(ii) Executive's willful failure to comply in any material respect with (A) the Company's Code of Conduct in effect from time to time and applicable to officers and/or employees generally, or (B) any written Company policy, if such policy is material to the

effective performance by Executive of Executive's duties under this Agreement, and, if such failure is curable, if Executive has been given a reasonable opportunity to cure this failure to comply within a period of time which is reasonable under the circumstances but not more than the thirty (30)-day period after written notice of such failure is provided to Executive; provided that if Executive cures this failure and then fails again to comply with the same provision of the Code of Conduct or the same written Company policy, no further opportunity to cure that failure shall be required;

(iii) Executive's misappropriation (or attempted misappropriation) of a material amount of the Company's funds or property;

(iv) Executive's conviction of, the entering of a guilty plea or plea of nolo contendere or no contest (or the equivalent), with respect to (A) either a felony or a crime that materially adversely affects or could reasonably be expected to materially adversely affect the Company or its business reputation; or (B) fraud, embezzlement, any felony offense involving dishonesty or constituting a breach of trust or moral turpitude;

(v) Executive's admission of liability of, or finding of liability by a court of competent jurisdiction for, a knowing and deliberate violation of any "Securities Laws"; provided that any termination of Executive by the Company for Cause pursuant to this clause (v) based on finding of liability by the court shall be treated instead for all purposes of this Agreement as a termination by the Company without Cause, with effect as of the date of such termination, if such finding is reversed on appeal in a decision from which an appeal may not be taken or as to which the time to appeal has expired. As used herein, the term "Securities Laws" means any federal or state law, rule or regulation governing generally the issuance or exchange of securities, including without limitation the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the "Exchange Act");

(vi) Executive's illegal possession or use of any controlled substance or excessive use of alcohol, in each case at a work function, in connection with Executive's duties, or on Company premises; "excessive" meaning either repeated unprofessional use or any single event of consumption giving rise to significant intoxication or unprofessional behavior; or

(vii) Executive's willful or grossly negligent commission of any other act or willful failure to act in connection with Executive's duties as an executive of the Company which causes or should reasonably be expected (as of the time of such occurrence) to cause substantial economic injury to or substantial injury to the business reputation of the Company, including, without limitation, any material violation of the Foreign Corrupt Practices Act, as described herein below.

No termination of Executive's employment shall be effective as a termination for Cause for purposes of this Agreement or any other "Company Arrangement" (as defined in Section 11(g)) unless Executive shall first have been given written notice by the Board of its intention to terminate his employment for Cause, such notice (the "Cause Notice") to state in detail the particular circumstances that constitute the grounds on which the proposed termination for Cause is based. If, within twenty (20) calendar days after such Cause Notice is given to

Executive, the Board gives written notice to Executive confirming that, in the judgment of at least a majority of the members of the Board, Cause for terminating his employment on the basis set forth in the original Cause Notice exists, his employment hereunder shall thereupon be terminated for Cause, subject to de novo review, at Executive's election, through arbitration in accordance with Section 29. If Executive commits or is charged with committing any offense of the character or type specified in subparagraph 1(d)(iv), (v) or (vi) herein, then the Company at its option may suspend Executive with or without pay and such suspension shall not constitute "Good Reason" hereunder or for purposes of any other arrangement with the Company. If Executive subsequently is convicted of, pleads guilty or nolo contendere (or equivalent plea) to, any such offense, Executive shall immediately repay the after-tax amount of any compensation paid in cash hereunder from the date of the suspension. Notwithstanding anything to the contrary in any stock option or equity incentive plan or award agreement, all vesting and all lapsing of restrictions on restricted shares shall be tolled during the period of suspension and all unvested options and restricted shares for which the restrictions have not lapsed shall terminate and not be exercisable by or issued to Executive if during or after such suspension Executive is convicted of, pleads guilty or nolo contendere (or equivalent plea) to, any offense specified in subparagraph 1(d)(iv) or (v). However, if Executive is found not guilty of all offenses relating to his suspension, or the charges relating to all such offenses are otherwise dropped, Executive shall be entitled to immediate payment of any amounts not paid during the suspension and any awards as to which the vesting or lapsing of restrictions was tolled shall immediately vest and applicable restrictions shall immediately lapse.

(e) "Change of Control" shall mean the occurrence of any of the following events:

(i) an acquisition of any voting securities of the Company by any "Person" or "Group" (as those terms are used for purposes of Section 13(d) or 14(d) of the Exchange Act), immediately after which such Person has "Beneficial Ownership" (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of thirty-five percent (35%) or more of the combined voting power of the Company's then-outstanding voting securities; provided, however, that the acquisition of voting securities in a "Non-Control Transaction" (as hereinafter defined) shall not constitute a Change of Control;

(ii) the individuals who, as of the Effective Date, are members of the Board (the "Incumbent Board"), cease for any reason to constitute a majority of the Board; provided, however, that if the election, or nomination for election by the Company's common stockholders, of any new director (excluding any director whose nomination or election to the Board is the result of any actual or threatened proxy contest or settlement thereof) was approved by a vote of at least a majority of the Incumbent Board, such new director shall, for purposes of this Agreement, be considered as a member of the Incumbent Board;

(iii) the consummation of a merger, consolidation or reorganization with or into the Company or in which securities of the Company are issued (a "Merger"), unless such Merger is a Non-Control Transaction. A "Non-Control Transaction" shall mean a Merger where: (1) the stockholders of the Company immediately before such Merger own, directly or indirectly, immediately following such Merger more than fifty percent (50%) of the combined voting power of the outstanding voting securities of the entity resulting from such Merger or its

controlling parent entity (the "Surviving Entity"), (2) the individuals who were members of the Incumbent Board immediately prior to the execution of the agreement providing for such Merger constitute at least a majority of the members of the board of directors (or similar governing body) of the Surviving Entity, and (3) no Person other than (X) the Company, its subsidiaries or any entity controlling, controlled by or under common control with the Company (each such entity, an "affiliate") or any of their respective employee benefit plans (or any trust forming a part thereof) that, immediately prior to such Merger, was maintained by the Company or any subsidiary or affiliate of the Company, or (Y) any Person who, immediately prior to such Merger, had Beneficial Ownership of thirty-five percent (35%) or more of the then-outstanding voting securities of the Company, has Beneficial Ownership of thirty-five percent (35%) or more of the combined voting power of the outstanding voting securities or common stock of the Surviving Entity;

(iv) the approval by the holders of the Company's then-outstanding voting securities of a complete liquidation or dissolution of the Company (other than where all or substantially all of assets of the Company are transferred to or remain with subsidiaries of the Company); or

(v) the sale or other disposition of all or substantially all of the assets of the Company and its direct and indirect subsidiaries on a consolidated basis, directly or indirectly, to any Person (other than a transfer to an affiliate of the Company) unless such sale or disposition constitutes a Non-Control Transaction (with the disposition of assets being regarded as a Merger for this purpose).

Notwithstanding the foregoing, a Change of Control shall not occur solely based on a filing of a Chapter 11 reorganization proceeding of the Company.

(f) "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder.

(g) "Committee" shall mean either the Compensation and Benefits Committee of the Board, or a subcommittee of such Committee duly appointed by the Board or the Committee, or any successor to the functions thereof.

(h) "Company" shall have the meaning set forth in the preamble hereto.

(i) "Corporate Office" shall mean the Company's offices in or near the metropolitan areas of Stamford, Connecticut or New York, New York.

(j) "Date of Termination" shall mean (i) if Executive's employment is terminated by Executive's death, the date of Executive's death and (ii) if Executive's employment is terminated pursuant to Section 10(a)(ii)-(vi), the date of termination of employment as provided thereunder. After the Date of Termination, unless otherwise agreed by the Parties, Executive shall, to the extent necessary to avoid the imposition of penalty taxes under Section 409A of the Code, have no duties that are inconsistent with his having had a "separation from service" as of the Date of Termination for purposes of Section 409A of the Code.

(k) For purposes of this Agreement, Executive will be deemed to have a "Disability" if, due to illness, injury or a physical or medically recognized mental condition, (i) Executive is unable to perform Executive's duties under this Agreement with reasonable accommodation for one hundred and twenty (120) consecutive calendar days, or one hundred and eighty (180) calendar days during any twelve (12)-month period, as determined in accordance with this Section 1(k), or (ii) Executive is considered disabled for purposes of receiving/qualifying for long-term disability benefits under any group long-term disability insurance plan or policy offered by the Company in which Executive participates. The Disability of Executive will be determined by a medical doctor selected by written agreement of the Company and Executive upon the request of either Party by notice to the other, or (in the case of and with respect to any applicable long-term disability insurance policy or plan) will be determined according to the terms of the applicable long-term disability insurance policy/plan. If the Company and Executive cannot agree on the selection of a medical doctor, each of them will select a medical doctor and the two medical doctors will select a third medical doctor who will determine whether Executive has a Disability. The determination of the medical doctor selected under this Section 1(k) will be binding on both Parties. Executive must submit to a reasonable number of examinations by the medical doctor making the determination of Disability under this Section 1(k), and to other specialists designated by such medical doctor, and Executive hereby authorizes the disclosure and release to the Company of such determination and all supporting medical records. If Executive is not legally competent, Executive's legal guardian or duly authorized attorney-in-fact will act in Executive's stead under this Section 1(k) for the purposes of submitting Executive to the examinations, and providing the authorization of disclosure, required under this Section 1(k).

(l) "Effective Date" shall mean May 18, 2016.

(m) "Employment Effective Date" shall mean the date Executive's employment with the Company or a predecessor commenced.

(n) "Executive" shall have the meaning set forth in the preamble hereto.

(o) "Good Reason" shall mean any of the events described herein that occur without Executive's prior written consent: (i) any reduction in Executive's Annual Base Salary or Target Bonus; (ii) any failure to pay or provide Executive's compensation hereunder when due; (iii) any material breach by the Company of a material term of this Agreement; (iv) a material adverse change of Executive's title, authorities, duties or responsibilities, including without limitation a transfer or reassignment to another executive of material responsibilities that have been assigned to Executive and generally are part of the responsibilities and functions assigned to an Executive Vice President and Chief Financial Officer of a public corporation, or the appointment of another individual to the same or similar titles or position; provided that this clause (iv) shall not apply following the delivery to Executive by the Company of a Non-renewal Notice at any time prior to a Change of Control and within one hundred ninety (190) days prior to the end of the term of this Agreement; (v) relocation of Executive's primary workplace to a location that is more than fifty (50) miles from the Corporate Office (in each case of clauses (i) through (v) only if Executive objects to the Company in writing within ninety (90) calendar days after first becoming aware of such event and unless the Company retracts and/or rectifies the claimed Good Reason event within thirty (30) calendar days following receipt of such notice;

(vi) the failure of a successor to the business of the Company to assume the Company's obligations under this Agreement in the event of a Change of Control during the Term; or (vii) any change in reporting structure such that Executive no longer reports directly to the Chief Executive Officer of the Company (or, if the Company becomes a subsidiary of another entity, the Chief Executive Officer of the ultimate parent entity).

(p) "Notice of Termination" shall have the meaning set forth in Section 10(b).

(q) "Non-renewal Notice" shall have the meaning set forth in Section 2.

(r) "Person" shall have the meaning set forth in Sections 13(d) and 14(d)(2) of the Exchange Act.

(r) "Plan" shall mean the Company's 2009 Stock Incentive Plan, as amended by the Company from time to time, and any successor thereto.

(s) "Term" shall have the meaning set forth in Section 2.

2. Employment Term. The Company hereby continues to employ Executive, and Executive hereby accepts continued employment, under the terms and conditions hereof, for the period (the "Term") beginning on the Effective Date and terminating upon the earlier of (i) the fifth anniversary of the Effective Date (the "Initial Term") and (ii) the Date of Termination as defined in Section 1(j). The Company may, in its sole discretion, extend the term of this Agreement for additional one (1)-year periods. If the Company fails to provide Executive with at least one hundred eighty (180) days' notice prior to the end of the Initial Term or any extension thereof of the Company's intent to not renew this Agreement (the "Non-renewal Notice"), the Initial Term or any previous extension thereof shall be extended one day for each day past the one hundred eightieth (180th) day prior to the end of the Initial Term or any extension thereof on which a Non-renewal Notice is not provided; provided that, if the Company fails to provide any Non-renewal Notice and does not extend the term of this Agreement as of the last day of the Initial Term or any extension thereof, the Non-renewal Notice shall be deemed to have been given to Executive on the last day of the term of this Agreement.

3. Position and Duties.

(a) During the Term, Executive shall serve as the Executive Vice President and Chief Financial Officer of the Company; shall have the authorities, duties and responsibilities customarily exercised by an individual serving in those positions at an entity of the size and nature of the Company; shall be assigned no duties or responsibilities that are materially inconsistent with, or that materially impair his ability to discharge, the foregoing duties and responsibilities; shall have such additional duties and responsibilities (including service with affiliates of the Company) reasonably consistent with the foregoing, as may from time to time reasonably be assigned to him by the Chief Executive Officer.

(b) During the Term, Executive shall devote substantially all of his business time and efforts to the business and affairs of the Company. However, nothing in this Agreement shall preclude Executive from: (i) serving on the boards of a reasonable number of business entities, trade associations and charitable organizations, (ii) engaging in charitable activities and

community affairs, (iii) accepting and fulfilling a reasonable number of speaking engagements, and (iv) managing his personal investments and affairs; provided that such activities do not, either individually or in the aggregate, interfere with the proper performance of his duties and responsibilities hereunder; create a conflict of interest; or violate any provision of this Agreement; and provided further that service on the board of any business entity must be approved in advance by the Board.

4. Place of Performance. During the Term, Executive's primary office and principal workplace shall be the Corporate Office, except for necessary travel on the Company's business. The Parties acknowledge and Executive agrees that Executive is expected to commute to the Corporate Office from his principal or secondary residence whether inside or outside of the metropolitan area or areas in which the Corporate Office is located.

5. Annual Base Salary. During the Term and beginning on the Effective Date, Executive shall receive a base salary at a rate not less than $850,000 per annum (the "Annual Base Salary"), paid in accordance with the Company's general payroll practices for executives, but no less frequently than monthly. The Annual Base Salary shall compensate Executive for any position in or directorship of a Company subsidiary or affiliate that Executive holds. No less frequently than annually during the Term, the Committee, on advice of the Company's Chief Executive Officer, shall review the rate of Annual Base Salary payable to Executive, and may, in its discretion, increase the rate of Annual Base Salary payable hereunder; provided, however, that any increased rate shall thereafter be the rate of "Annual Base Salary" hereunder.

6. Bonus. Except as otherwise provided for herein, for each fiscal year or other period consistent with the Company's then-applicable normal employment practices during which Executive is employed hereunder on the last day (the "Bonus Year"), Executive shall be eligible to receive a bonus with a target amount not less than 150% of Executive's Annual Base Salary (the "Target Bonus"), with the actual bonus payout depending on the achievement of levels of performance for that year (the "Bonus") pursuant to, and as set forth in, the terms of the Company's Executive Bonus Plan as it may be amended from time to time, plus such other bonus payments, if any, as shall be determined by the Committee in its sole discretion, with such bonuses being paid on or before March 15 of the calendar year next following the Bonus Year.

7. Benefits. Executive shall be entitled to receive such benefits and to participate in such employee group benefit plans, including life, health and disability insurance policies, and financial planning services, and other perquisites and plans as are generally provided by the Company to its other senior executives in accordance with the plans, practices and programs of the Company, as amended and in effect from time to time.

8. Expenses.

(a) The Company shall promptly reimburse Executive for all reasonable and necessary expenses incurred by Executive in connection with the performance of Executive's duties as an employee of the Company. Such reimbursement is subject to the submission to the Company by Executive of appropriate documentation and/or vouchers in accordance with the

customary procedures of the Company for expense reimbursement, as such procedures may be revised by the Company from time to time hereafter.

(b) The Company will, not later than thirty (30) calendar days after presentation of an invoice for fees and charges together with customary supporting documentation, reimburse Executive for his legal fees and other charges that he incurs in connection with the drafting, negotiation and implementation of this Agreement, in an amount not to exceed $20,000.

9. Vacations. Executive shall be entitled to paid vacation in accordance with the Company's vacation policy as in effect from time to time, provided that, in no event shall Executive be entitled to less than four (4) weeks of paid vacation per calendar year. Executive shall also be entitled to paid holidays and personal days in accordance with the Company's practice with respect to same as in effect from time to time.

10. Termination.

(a) Executive's employment hereunder may be terminated by the Company, on the one hand, or Executive, on the other hand, as applicable, without any breach of this Agreement, under the following circumstances:

(i) Death. Executive's employment hereunder shall automatically terminate upon Executive's death.

(ii) Disability. If Executive has incurred a Disability, the Company may give Executive written notice of its intention to terminate Executive's employment. In such event, Executive's employment with the Company shall terminate effective on the fourteenth (14th) calendar day after delivery of such notice to Executive; provided that, within the fourteen (14) calendar days after such delivery, Executive shall not have returned to full time performance of Executive's duties. Executive may provide notice to the Company of Executive's resignation on account of a Disability at any time.

(iii) Cause. The Company may terminate Executive's employment hereunder for Cause effectively immediately upon delivery of notice to Executive, after complying with any procedural requirements set forth in Section 1(d).

(iv) Good Reason. Executive may terminate Executive's employment herein with Good Reason upon (A) satisfaction of any advance notice and other procedural requirements set forth in Section 1(o) for any termination following an event described in any of Sections 1(o)(i) through (v), or (B) at least thirty (30) calendar days' advance written notice by Executive for any termination following an event described in Sections 1(o)(vi) or (vii).

(v) Without Cause. The Company may terminate Executive's employment hereunder without Cause upon at least thirty (30) calendar days' advance written notice to Executive.

(vi) Resignation Without Good Reason. Executive may resign Executive's employment without Good Reason upon at least thirty (30) calendar days' advance written notice to the Company.

(b) Notice of Termination. Any termination of Executive's employment by the Company or by Executive under this Section 10 (other than pursuant to Section 10(a)(i)) shall be communicated by a written notice (the "Notice of Termination") to the other Party hereto, indicating the specific termination provision in this Agreement relied upon, setting forth in reasonable detail any facts and circumstances claimed to provide a basis for termination of Executive's employment under the provision so indicated, and specifying a Date of Termination, which notice shall be delivered within the applicable time periods set forth in subsections 10(a)(ii)-(vi) (the "Notice Period"); provided that the Company may earlier terminate Executive's employment during such Notice Period and pay to Executive all Annual Base Salary, benefits and other rights due to Executive under this Agreement during such Notice Period (as if Executive continued employment) instead of employing Executive during such Notice Period.

(c) Resignation from Representational Capacities. Executive hereby acknowledges and agrees that upon Executive's termination of employment with the Company for whatever reason, Executive shall be deemed to have, and shall have in fact, effectively resigned from all executive, director, offices, or other positions with the Company or its affiliates at the time of such termination of employment, and shall return all property owned by the Company and in Executive's possession, including all hardware, files and documents, at that time. Nothing in this Agreement or elsewhere shall prevent Executive from retaining and utilizing copies of benefits plans and programs in which he retains an interest or other documents relating to his personal entitlements and obligations, his desk calendars, his rolodex, and the like, or such other records and documents as may reasonably be approved by the Company.

(d) Termination in Connection with Change of Control. If (i) Executive's employment is terminated by the Company without Cause upon, within thirty (30) calendar days before, or within thirteen (13) months after, a Change of Control, or prior to a Change of Control at the request of a prospective purchaser whose proposed purchase would constitute a Change of Control upon its completion, such termination shall be deemed to have occurred immediately before such Change of Control for purposes of Section 11(b) of this Agreement and the Plan, or (ii) Executive's employment terminates for any reason at the end of the Term following the delivery or deemed delivery to Executive of a Non-renewal Notice upon, within thirty (30) calendar days before, or within thirteen (13) months after, a Change of Control, or prior to a Change of Control at the request of such a prospective purchaser, such termination shall be deemed to be by the Company without Cause and shall be deemed to have occurred immediately before such Change of Control for purposes of Section 11(b) of this Agreement and the Plan.

11. Termination Pay.

(a) Effective upon the termination of Executive's employment, the Company will be obligated to pay Executive (or, in the event of Executive's death, Executive's designated

beneficiary as defined below) only such compensation as is provided in this Section 11, except to the extent otherwise provided for in any Company stock incentive, stock option or cash award plan (including, among others, the Plan and the award agreements applicable thereunder). For purposes of this Section 11, Executive's designated beneficiary will be such individual beneficiary or trust, located at such address, as Executive may designate by notice to the Company from time to time or, if Executive fails to give notice to the Company of such a beneficiary, Executive's estate. Notwithstanding the preceding sentence, the Company will have no duty, in any circumstances, to attempt to open an estate on behalf of Executive, to determine whether any beneficiary designated by Executive is alive or to ascertain the address of any such beneficiary, to determine the existence of any trust, to determine whether any person purporting to act as Executive's personal representative (or the trustee of a trust established by Executive) is duly authorized to act in that capacity, or to locate or attempt to locate any beneficiary, personal representative, or trustee.

(b) Termination by Executive with Good Reason or by Company without Cause. If prior to expiration of the Term, Executive terminates his employment with Good Reason, or if the Company terminates Executive's employment other than for Cause and other than for death or Disability, Executive will be entitled to receive: (i) all Annual Base Salary earned and duly payable for periods ending on or prior to the Date of Termination but unpaid as of the Date of Termination and all accrued but unused vacation days at his per-business-day rate of Annual Base Salary in effect as of the Date of Termination, which amounts shall be paid in cash in a lump sum no later than ten (10) business days following the Date of Termination; (ii) all reasonable expenses incurred by Executive through the Date of Termination that are reimbursable in accordance with Section 8, which amount shall be paid in cash within thirty (30) calendar days after the submission by Executive of receipts; and (iii) all Bonuses earned and duly payable for periods ending on or prior to the Date of Termination but unpaid as of the Date of Termination, which amounts shall be paid in cash in a lump sum no later than sixty (60) calendar days following the Date of Termination (such amounts in clauses (i), (ii) and (iii) together, the "Accrued Obligations"). If Executive signs and delivers to the Company and does not (within the applicable revocation period) revoke the Release (as defined in Section 11(h)) within sixty (60) calendar days following the Date of Termination, Executive shall also be entitled to receive the following payments and benefits in consideration for Executive abiding by the obligations set forth in Sections 13, 14 and 15:

(A) an amount equal to 2.0 times the sum of Executive's (x) Annual Base Salary and (y) Target Bonus for the calendar year in which the Date of Termination occurs, which amount shall (subject to Section 32(a)) be paid in substantially equal installments in accordance with the Company's normal payroll practices in effect from time to time commencing with the first payroll date more than sixty (60) calendar days following the Date of Termination and ending twenty-four (24) months and sixty (60) days following the Date of Termination; provided that, if a Change of Control occurs during the twenty-four (24) month period after the Date of Termination (or is deemed pursuant to Section 10(d) to have occurred immediately after such Date of Termination) and such Change of Control qualifies either as a "change in the ownership or effective control" of the Company or a "change in the ownership of a substantial portion of the

assets" of the Company within the meaning of Section 409A of the Code, any amounts remaining payable to Executive hereunder shall be paid in a single lump sum immediately upon such Change of Control;

(B) a lump sum payment (in an amount net of any taxes deducted and other required withholdings) equal to twenty-four (24) times the monthly cost (as of the Date of Termination) for Executive to receive continued coverage under COBRA for health, dental and vision benefits then being provided for Executive at the Company's cost on the Date of Termination. This amount will be paid on the first payroll date immediately following the thirty (30)-calendar-day anniversary of the Date of Termination and will not take into account increases in coverage costs after the Date of Termination; and

(C) provide for up to twelve (12) months, or until Executive obtains new employment if sooner, executive-level outplacement services (which provides as part of the outplacement services the use of an office and secretarial support as near as reasonably practicable to Executive's residence).

(c) No Mitigation. Executive shall not be required to mitigate the amount of any payments provided in this Section 11 by seeking other employment or otherwise, nor shall the amount of any payment provided for in this Section 11 be reduced by any compensation earned by Executive as a result of employment by another company or business, or by profits earned by Executive from any other source at any time before or after the Date of Termination.

(d) Termination by Executive without Good Reason or by Company for Cause. If, prior to the expiration of the Term, Executive terminates Executive's employment without Good Reason or if the Company terminates Executive's employment for Cause, Executive shall be entitled to receive the Accrued Obligations at the times set forth in Sections 11(b)(i), (ii) and (iii), respectively, and Executive shall be entitled to no other compensation, bonus, payments or benefits except as expressly provided in this Section 11(d) or Section 11(g) below.

(e) Termination by Executive Following Receipt of Non-renewal Notice. If Executive terminates Executive's employment for any reason in the year in which Executive receives or is deemed to receive a Non-renewal Notice and at or after such receipt or deemed receipt, Executive shall be entitled to receive (i) the Accrued Obligations at the times set forth in Sections 11(b)(i), (ii) and (iii), respectively, and (ii) a pro-rata portion of the Bonus granted to Executive for the year in which the Date of Termination occurs equal to a fraction, the numerator of which is the number of calendar days during such year through (and including) the Date of Termination and the denominator of which is 365, with such pro-rata portion earned in an amount based on the degree to which the applicable performance financial and operational goals are ultimately achieved, as determined by the Committee on a basis applied uniformly to Executive as to other senior executives of the Company, which shall be payable at the time bonuses granted for the year in which the Date of Termination occurs are paid to other senior executives of the Company. Executive shall be entitled to no other compensation, bonus,

payments or benefits except as expressly provided in this Section 11(e) or Section 11(g), unless such termination occurs during the Term and is for Good Reason, in which case Executive shall also be entitled to the compensation and benefits contemplated by Section 11(b).

(f) Termination upon Disability or Death. If Executive's employment shall terminate by reason of Executive's Disability (pursuant to Section 10(a)(ii)) or death (pursuant to Section 10(a)(i)), the Company shall pay to Executive or Executive's estate (as applicable) the Accrued Obligations at the times set forth in Sections 11(b)(i), (ii) and (iii), respectively. In the case of Disability, if there is a period of time during which Executive is not being paid Annual Base Salary and not receiving long-term disability insurance payments, the Company shall (subject to Section 32(a)) make interim payments to Executive equal to such unpaid disability insurance payments until the commencement of disability insurance payments.

(g) Benefits on Any Termination. On any termination of Executive's employment hereunder, he shall be entitled to other or additional benefits in accordance with the then applicable terms of applicable plans, programs, corporate governance documents, agreements and arrangements of the Company and its affiliates (excluding any such plans, programs, corporate governance documents, agreements and arrangements of the Company and its affiliates providing for severance payments and/or benefits) (collectively, "Company Arrangements").

(h) Conditions to Payments. Any and all amounts payable and benefits or additional rights provided pursuant to Sections 11(b)(A)-(C) shall be paid only if Executive signs and delivers to the Company and does not (within the applicable revocation period) revoke a general release of claims in favor of the Company, its affiliates, and their respective successors, assigns, officers, directors and representatives in substantially the form attached hereto as Exhibit A hereto (the "Release") within no later than sixty (60) calendar days following the Date of Termination. If Executive does not timely sign and deliver such Release to the Company, or if Executive timely revokes such Release, Executive hereby acknowledges and agrees that he shall forfeit any and all right to any and all amounts payable and benefits or additional rights provided pursuant to Sections 11(b)(A)-(C).

(i) Survival. Except as otherwise set forth in this Agreement, the respective rights and obligations of the Parties under this Agreement shall survive any termination of Executive's employment.

12. Excess Parachute Payment.

(a) Anything in this Agreement or the Plan to the contrary notwithstanding, to the extent that any payment, distribution or acceleration of vesting to or for the benefit of Executive by the Company (within the meaning of Section 280G of the Code and the regulations thereunder), whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise (the "Total Payments"), is or will be subject to the excise tax imposed under Section 4999 of the Code (the "Excise Tax"), then the Total Payments shall be reduced (but not below zero) to the Safe Harbor Amount (as defined below) if and to the extent that a reduction in the Total Payments would result in Executive retaining a larger amount, on an after-tax basis (taking into account federal, state and local income and employment taxes and the Excise Tax), than if Executive received the entire amount of such Total Payments in accordance with their existing terms (taking into account federal, state, and local income and employment taxes and the

Excise Tax). For purposes of this Agreement, the term "Safe Harbor Amount" means the largest portion of the Total Payments that would result in no portion of the Total Payments being subject to the Excise Tax. To effectuate the foregoing, the Company shall reduce or eliminate the Total Payments by first reducing or eliminating the portion of the Total Payments which are payable in cash and then by reducing or eliminating non-cash payments, in each case, starting with the payments to be made farthest in time from the Determination (as defined below).

(b) The determination of whether the Total Payments shall be reduced as provided in Section 12(a) and the amount of such reduction shall be made at the Company's expense by an accounting firm selected by Company from among the ten (10) largest accounting firms in the United States or by qualified independent tax counsel (the "Determining Party"); provided that Executive shall be given advance notice of the Determining Party selected by the Company, and shall have the opportunity to reject the selection, within two (2) business days of being notified of the selection, on the basis of that Determining Party's having a conflict of interest or other reasonable basis, in which case the Company shall select an alternative auditing firm among the ten largest accounting firms in the United States or alternative independent qualified tax counsel, which shall become the Determining Party. Such Determining Party shall provide its determination (the "Determination"), together with detailed supporting calculations and documentation to the Company and Executive, within ten (10) business days of the termination of Executive's employment or at such other time mutually agreed by the Company and Executive. If the Determining Party determines that no Excise Tax is payable by Executive with respect to the Total Payments, it shall furnish Executive with an opinion reasonably acceptable to Executive that no Excise Tax will be imposed with respect to any such payments and, absent manifest error, such Determination shall be binding, final and conclusive upon the Company and Executive. If the Determining Party determines that an Excise Tax would be payable, the Company shall have the right to accept the Determination as to the extent of the reduction, if any, pursuant to Section 12(a), or to have such Determination reviewed by another accounting firm selected by the Company, at the Company's expense. If the two accounting firms do not agree, a third accounting firm shall be jointly chosen by Executive and the Company, in which case the determination of such third accounting firm shall be binding, final and conclusive upon the Company and Executive.

(c) If, notwithstanding any reduction described in this Section 12, the Internal Revenue Service ("IRS") determines that Executive is liable for the Excise Tax as a result of the receipt of any of the Total Payments or otherwise, then Executive shall be obligated to pay back to the Company, within thirty (30) calendar days after a final IRS determination or in the event that Executive challenges the final IRS determination, a final judicial determination, a portion of the Total Payments equal to the "Repayment Amount." The "Repayment Amount" with respect to the payment of benefits shall be the smallest such amount, if any, as shall be required to be paid to the Company so that Executive's net after-tax proceeds with respect to the Total Payments (after taking into account the payment of the Excise Tax and all other applicable taxes imposed on the Payment) shall be maximized. The Repayment Amount shall be zero if a Repayment Amount of more than zero would not result in Executive's net after-tax proceeds

with respect to the Total Payments being maximized. If the Excise Tax is not eliminated pursuant to this Section 12(c), Executive shall pay the Excise Tax.

(d) Notwithstanding any other provision of this Section 12, if (i) there is a reduction in the Total Payments as described in this Section 12, (ii) the IRS later determines that Executive is liable for the Excise Tax, the payment of which would result in the maximization of Executive's net after-tax proceeds (calculated as if Executive's benefits had not previously been reduced), and (iii) Executive pays the Excise Tax, then the Company shall pay to Executive those payments or benefits which were reduced pursuant to this Section 12 as soon as administratively possible after Executive pays the Excise Tax (but not later than March 15 following the calendar year of the IRS determination) so that Executive's net after-tax proceeds with respect to the Total Payments are maximized.

(e) To the extent requested by Executive, the Company shall cooperate with Executive in good faith in valuing, and the Determining Party shall take into account the value of, services provided or to be provided by Executive (including, without limitation, Executive's agreeing to refrain from performing services pursuant to a covenant not to compete or similar covenant, before, on or after the date of a change in ownership or control of the Company (within the meaning of Q&A-2(b) of the final regulations under Section 280G of the Code), such that payments in respect of such services may be considered reasonable compensation within the meaning of Q&A-9 and Q&A-40 to Q&A-44 of the final regulations under Section 280G of the Code and/or exempt from the definition of the term "parachute payment" within the meaning of Q&A-2(a) of the final regulations under Section 280G of the Code in accordance with Q&A-5(a) of the final regulations under Section 280G of the Code.

13. Competition/Confidentiality.

(a) Acknowledgments by Executive. Executive acknowledges that: (i) on and following the Employment Effective Date and through the Term and as a part of Executive's employment, Executive has been and will be afforded access to Confidential Information (as defined below); (ii) public disclosure of such Confidential Information could have an adverse effect on the Company and its business; (iii) because Executive possesses substantial technical expertise and skill with respect to the Company's business, the Company desires to obtain exclusive ownership of each invention by Executive while Executive is employed by the Company, and the Company will be at a substantial competitive disadvantage if it fails to acquire exclusive ownership of each such invention by Executive; and (iv) the provisions of this Section 13 are reasonable and necessary to prevent the improper use or disclosure of Confidential Information and to provide the Company with exclusive ownership of all inventions and works made or created by Executive.

(b) Confidential Information.

(i) Executive acknowledges that on and following the Employment Effective Date and through the Term Executive has had and will have access to and may obtain, develop, or learn of Confidential Information (as defined below) under and pursuant to a relationship of trust and confidence. Executive shall hold such Confidential Information in strictest confidence and never at any time, during or after Executive's employment terminates,

directly or indirectly use for Executive's own benefit or otherwise (except in connection with the performance of any duties as an employee hereunder) any Confidential Information, or divulge, reveal, disclose or communicate any Confidential Information to any unauthorized person or entity in any manner whatsoever.

(ii) As used in this Agreement, the term "Confidential Information" shall include, but not be limited to, any of the following information relating to the Company learned by Executive on and following the Employment Effective Date and through the Term or as a result of Executive's employment with the Company:

(A) information regarding the Company's business proposals, manner of the Company's operations, and methods of selling or pricing any products or services;

(B) the identity of persons or entities actually conducting or considering conducting business with the Company, and any information in any form relating to such persons or entities and their relationship or dealings with the Company or its affiliates;

(C) any trade secret or confidential information of or concerning any business operation or business relationship;

(D) computer databases, software programs and information relating to the nature of the hardware or software and how said hardware or software is used in combination or alone;

(E) information concerning Company personnel, confidential financial information, customer or customer prospect information, information concerning subscribers, subscriber and customer lists and data, methods and formulas for estimating costs and setting prices, engineering design standards, testing procedures, research results (such as marketing surveys, programming trials or product trials), cost data (such as billing, equipment and programming cost projection models), compensation information and models, business or marketing plans or strategies, deal or business terms, budgets, vendor names, programming operations, product names, information on proposed acquisitions or dispositions, actual performance compared to budgeted performance, long range plans, internal financial information (including but not limited to financial and operating results for certain offices, divisions, departments, and key market areas that are not disclosed to the public in such form), results of internal analyses, computer programs and programming information, techniques and designs, and trade secrets;

(F) information concerning the Company's employees, officers, directors and shareholders; and

(G) any other trade secret or information of a confidential or proprietary nature.

(iii) Executive shall not make or use any notes or memoranda relating to any Confidential Information except for uses reasonably expected by Executive to be for the benefit of the Company, and will, at the Company's request, return each original and every copy of any and all notes, memoranda, correspondence, diagrams or other records, in written or other form, that Executive may at any time have within his possession or control that contain any Confidential Information.

(iv) Notwithstanding the foregoing, Confidential Information shall not include information that has come within the public domain through no fault of or action by Executive or that has become rightfully available to Executive on a non-confidential basis from any third party, the disclosure of which to Executive does not violate any contractual or legal obligations that such third party has to the Company or its affiliates with respect to such Confidential Information. None of the foregoing obligations and restrictions applies to any part of the Confidential Information that Executive demonstrates was or became generally available to the public other than as a result of a disclosure by Executive or by any other person bound by a confidentiality obligation to the Company in respect of such Confidential Information. Further, nothing herein shall prohibit Executive from using Confidential Information to the extent necessary to exercise any legally protected whistleblower rights (including pursuant to Rule 21F under the Exchange Act).

(v) Executive will not remove from the Company's premises (except to the extent such removal is for purposes of the performance of Executive's duties at home or while traveling, or except as otherwise specifically authorized by the Company) any Company document, record, notebook, plan, model, component, device, or computer software or code, whether embodied in a disk or in any other form (collectively, the "Proprietary Items"). Executive recognizes that, as between the Company and Executive, all of the Proprietary Items, whether or not developed by Executive, are the exclusive property of the Company. Upon termination of Executive's employment by either Party, or upon the request of the Company on and following the Effective Date and through the Term, Executive will return to the Company all of the Proprietary Items in Executive's possession or subject to Executive's control, including all equipment (*e.g.*, laptop computers, cell phone, portable e-mail devices, etc.), documents, files and data, and Executive shall not retain any copies, abstracts, sketches, or other physical embodiment of any such Proprietary Items.

14. Proprietary Developments.

(a) Developments. Any and all inventions, products, discoveries, improvements, processes, methods, computer software programs, models, techniques, or formulae (collectively, hereinafter referred to as "Developments"), made, conceived, developed, or created by Executive (alone or in conjunction with others, during regular work hours or otherwise) during Executive's employment which may be directly or indirectly useful in, or relate to, the business conducted or to be conducted by the Company will be promptly disclosed by Executive to the Company and shall be the Company's exclusive property. The term "Developments" shall not be deemed to include inventions, products, discoveries,

improvements, processes, methods, computer software programs, models, techniques, or formulae which were in the possession of Executive prior to the Employment Effective Date. Executive hereby transfers and assigns to the Company all proprietary rights that Executive may have or acquire in any Developments and Executive waives any other special right which Executive may have or accrue therein. Executive will execute any documents and take any actions that may be required, in the reasonable determination of the Company's counsel, to effect and confirm such assignment, transfer and waiver, to direct the issuance of patents, trademarks, or copyrights to the Company with respect to such Developments as are to be the Company's exclusive property or to vest in the Company title to such Developments; provided, however, that the expense of securing any patent, trademark or copyright shall be borne by Company. The Parties agree that Developments shall constitute Confidential Information.

(b) Work Made for Hire. Any work performed by Executive during Executive's employment with the Company shall be considered a "Work Made for Hire" as defined in the U.S. Copyright laws, and shall be owned by and for the express benefit of the Company. In the event it should be established that such work does not qualify as a Work Made for Hire, Executive agrees to and does hereby assign to the Company all of Executive's right, title, and interest in such work product including, but not limited to, all copyrights and other proprietary rights.

15. Non-Competition and Non-Interference.

(a) Acknowledgments by Executive. Executive acknowledges and agrees that: (i) the services to be performed by Executive under this Agreement are of a special, unique, unusual, extraordinary, and intellectual character; (ii) the Company competes with other businesses that are or could be located in any part of the world; (iii) the provisions of this Section 15 are reasonable and necessary to protect the Company's business and lawful protectable interests, and do not impair Executive's ability to earn a living; and (iv) the Company has agreed to provide the severance and other benefits set forth in Sections 11(b)(A)-(C) in consideration for Executive's abiding by the obligations under this Section 15 and but for Executive's agreement to comply with such obligations, the Company would not have agreed to provide such severance and other benefits.

(b) Covenants of Executive. For purposes of this Section 15, the term "Restricted Period" shall mean the period commencing on the Effective Date and terminating on the second anniversary (or, in the case of Section 15(b)(iii), the first anniversary) of the Date of Termination. In consideration of the acknowledgments by Executive, and in consideration of the compensation and benefits to be paid or provided to Executive by the Company, Executive covenants and agrees that during the Restricted Period, Executive will not, directly or indirectly, for Executive's own benefit or for the benefit of any other person or entity other than the Company:

(i) in the United States or any other country or territory where the Company then conducts its business: engage in, operate, finance, control or be employed by a "Competitive Business" (as defined below); serve as an officer or director of a Competitive Business (regardless of where Executive then lives or conducts such activities); perform any work as an employee, consultant (other than as a member of a professional consultancy, law

firm, accounting firm or similar professional enterprise that has been retained by the Competitive Business and where Executive has no direct role in such professional consultancy and maintains the confidentiality of all information acquired by Executive during his or her employment with the Company), contractor, or in any other capacity with, a Competitive Business; directly or indirectly invest or own any interest in a Competitive Business (regardless of where Executive then lives or conducts such activities); or directly or indirectly provide any services or advice to any business, person or entity who or which is engaged in a Competitive Business (other than as a member of a professional consultancy, law firm, accounting firm or similar professional enterprise that has been retained by the Competitive Business and where Executive has no direct role in such professional consultancy and maintains the confidentiality of all information acquired by Executive during his or her employment with the Company). A "Competitive Business" is any business, person or entity who or which, anywhere within that part of the United States, or that part of any other country or territory, where the Company conducts business (A) owns or operates a cable television system; (B) provides direct television or any satellite based, telephone system based, internet based or wireless system for delivering television, music or other entertainment programming (other than as an ancillary service, such as cellular telephone providers); (C) provides telephony services using any wired connection or fixed (as opposed to mobile) wireless application; (D) provides data or internet access services; (E) offers, provides, markets or sells any service or product of a type that is offered or marketed by or directly competitive with a service or product offered or marketed by the Company at the time Executive's employment terminates and, in the case of this clause (E), which produced greater than ten percent (10%) of the Company's revenues in the calendar year immediately prior to the year in which employment terminated; or (F) who or which in any case is preparing or planning to do any of the activities described in the preceding clauses (A) through (E). The provisions of this Section 15 shall not be construed or applied (I) so as to prohibit Executive from owning not more than five percent (5%) of any class of securities that is publicly traded on any national or regional securities exchange, as long as Executive's investment is passive and Executive does not lend or provide any services or advice to such business or otherwise violate the terms of this Agreement in connection with such investment; or (II) so as to prohibit Executive from working as an employee in the cable television business for a company/business that owns or operates cable television franchises (by way of example as of the Effective Date only, Altice, Cox or Comcast), provided that the company/business is not providing cable services in any political subdivision/ geographic area where the Company has a franchise or provides cable services (other than nominal overlaps of service areas) and the company/business is otherwise not engaged in a Competitive Business, and provided that Executive does not otherwise violate the terms of this Agreement in connection with that work; and provided further that nothing in this Section 15(b)(i) shall abrogate or affect any provision regarding the effect of Executive's working for a company/business that owns or operates cable television franchises (including, as of the Effective Date only, Altice, Cox and Comcast) in any stock option or other equity award agreement between Executive and the Company;

(ii) contact, solicit or provide any service in connection with any Competitive Business to any person or entity that was a customer franchisee, or prospective customer of the Company at any time during Executive's employment (a prospective customer being one to whom the Company had made a business proposal within twelve (12) months prior to the time Executive's employment terminated); or directly solicit or encourage any customer, franchisee or subscriber of the Company to purchase any service or product of a type offered by

or competitive with any product or service provided by the Company, or to reduce the amount or level of business purchased by such customer, franchisee or subscriber from the Company; or take away or procure for the benefit of any Competitive Business, any business of a type provided by or competitive with a product or service offered by the Company; or

(iii) solicit or recruit for employment, or hire or attempt to hire, any person or persons who are employed by the Company or any of its subsidiaries or affiliates, or who were so employed at any time within a period of six (6) months immediately prior to the Date of Termination, or otherwise interfere with the relationship between any such person and the Company; nor will Executive assist anyone else in recruiting any such employee to work for another company or business or discuss with any such person his or her leaving the employ of the Company or engaging in a business activity in competition with the Company. This provision shall not apply to secretarial, clerical, custodial or maintenance employees, nor shall it prohibit Executive from providing a personal reference for the person or persons described in this subsection in response to a request for such a personal reference.

If Executive violates any covenant contained in this Section 15, then the term of the covenants in this Section shall be extended by the period of time Executive was in violation of the same.

(c) Provisions Pertaining to the Covenants. Executive recognizes that the existing business of the Company extends to various locations and areas throughout the United States and will extend hereafter to other countries and territories and agrees that the scope of this Section 15 shall extend to any part of the United States, and any other country or territory, where the Company operates or conducts business, or has concrete plans to do so at the time Executive's employment terminates. It is agreed that Executive's services hereunder are special, unique, unusual and extraordinary giving them peculiar value, the loss of which cannot be reasonably or adequately compensated for by damages, and in the event of Executive's breach of this Section, the Company shall be entitled to equitable relief by way of injunction or otherwise in addition to the cessation of payments and benefits hereunder. If any provision of Section 13, 14 or 15 is deemed to be unenforceable by a court (whether because of the subject matter of the provision, the duration of a restriction, the geographic or other scope of a restriction or otherwise), that provision shall not be rendered void but the Parties instead agree that the court shall amend and alter such provision to such lesser degree, time, scope, extent and/or territory as will grant the Company the maximum restriction on Executive's activities permitted by applicable law in such circumstances. The Company's failure to exercise its rights to enforce the provisions of this Agreement shall not be affected by the existence or non-existence of any other similar agreement for anyone else employed by the Company or by the Company's failure to exercise any of its rights under any such agreement.

(d) Notices. In order to preserve the Company's rights under this Agreement, the Company is authorized to advise any potential or future employer, any third party with whom Executive may become employed or enter into any business or contractual relationship with, and any third party whom Executive may contact for any such purpose, of the existence of this Agreement and its terms, and the Company shall not be liable for doing so.

(e) Injunctive Relief and Additional Remedy. Executive acknowledges that the injury that would be suffered by Company as a result of a breach of the provisions of this

Agreement (including any provision of Sections 13, 14 and 15) would be irreparable and that an award of monetary damages to the Company for such a breach would be an inadequate remedy. Consequently, the Company will have the right, in addition to any other rights it may have, to obtain injunctive relief to restrain any breach or threatened breach or otherwise to specifically enforce any provision of this Agreement, and the Company will not be obligated to post bond or other security in seeking such relief. Without limiting the Company's rights under this Section or any other remedies of the Company, in the event of a determination by a court of competent jurisdiction, as to which no further appeal can be taken or as to which the time to appeal has expired, that Executive has willfully breached a material obligation under Section 13, 14 or 15, (i) the Company will have the right to cease making any payments otherwise due to Executive under this Agreement and (ii) Executive will repay to the Company all amounts paid to him under this Agreement on and following the date that such breach first occurred (as determined by the court), including but not limited to the return of any stock and options (and stock purchased through the exercise of options) that first became vested following such date, and the proceeds of the sale of any such stock. Notwithstanding the foregoing, if Executive's breach of a material obligation under Section 13, 14 or 15 is curable, prior to seeking the remedies contemplated by the immediately preceding sentence, the Company shall provide Executive written notice of such breach and Executive shall be given ten (10) business days from receipt of such written notice to cure, provided, that if Executive cures such breach and then breaches again, no further opportunity to cure shall be provided.

(f) Covenants of Sections 13, 14 and 15 are Essential and Independent Covenants. The covenants by Executive in Sections 13, 14 and 15 are essential elements of this Agreement, and without Executive's agreement to comply with such covenants, the Company would not have entered into this Agreement or employed Executive. The Company and Executive have independently consulted their respective counsel and have been advised in all respects concerning the reasonableness and propriety of such covenants, with specific regard to the nature of the business conducted by the Company. Executive's covenants in Sections 13, 14 and 15 are independent covenants and the existence of any claim by Executive against the Company, under this Agreement or otherwise, will not excuse Executive's breach of any covenant in Section 13, 14 or 15. If Executive's employment hereunder is terminated, this Agreement will continue in full force and effect as is necessary or appropriate to enforce the covenants and agreements of Executive in Sections 13, 14 and 15. The Company's right to enforce the covenants in Sections 13, 14 and 15 shall not be adversely affected or limited by the Company's failure to have an agreement with another employee with provisions at least as restrictive as those contained in Section 13, 14 or 15, or by the Company's failure or inability to enforce (or agreement not to enforce) in full the provisions of any other or similar agreement containing one or more restrictions of the type specified in Sections 13, 14 and 15.

16. Representations and Further Agreements.

(a) Executive represents, warrants and covenants to the Company that Executive is knowledgeable and sophisticated as to business matters, including the subject matter of this Agreement, and that prior to assenting to the terms of this Agreement, or giving the representations and warranties herein, Executive has been given a reasonable time to review it and has consulted with counsel of Executive's choice; and

(b) During Executive's employment with the Company and subsequent to the cessation thereof, Executive will reasonably cooperate with Company, and furnish any and all complete and truthful information, testimony or affidavits in connection with any matter that arose during Executive's employment, that in any way relates to the business or operations of the Company or any of its parent or subsidiary corporations or affiliates, or of which Executive may have any knowledge or involvement; and will consult with and provide information to the Company and its representatives concerning such matters. Executive shall reasonably cooperate with the Company in the protection and enforcement of any intellectual property rights that relate to services performed by Executive for Company, whether under the terms of this Agreement or prior to the execution of this Agreement. This shall include without limitation executing, acknowledging, and delivering to the Company all documents or papers that may be necessary to enable the Company to publish or protect such intellectual property rights. Subsequent to the cessation of Executive's employment with the Company, the Parties will make their best efforts to have such cooperation performed at reasonable times and places and in a manner as not to unreasonably interfere with any other employment in which Executive may then be engaged. Nothing in this Agreement shall be construed or interpreted as requiring Executive to provide any testimony, sworn statement or declaration that is not complete and truthful. If the Company requires Executive to travel outside the metropolitan area in the United States where Executive then resides to provide any testimony or otherwise provide any such assistance, then the Company will reimburse Executive for any reasonable, ordinary and necessary travel and lodging expenses incurred by Executive to do so; provided that Executive submits all documentation required under the Company's standard travel expense reimbursement policies and as otherwise may be required to satisfy any requirements under applicable tax laws for the Company to deduct those expenses. Nothing in this Agreement shall be construed or interpreted as requiring Executive to provide any testimony or affidavit that is not complete and truthful.

(c) The Company represents and warrants that (i) it is fully authorized by action of the Board (and of any other Person or body whose action is required) to enter into this Agreement and to perform its obligations under it, (ii) the execution, delivery and performance of this Agreement by it does not violate any applicable law, regulation, order, judgment or decree or any agreement, arrangement, plan or corporate governance document to which it is a party or by which it is bound, and (iii) upon the execution and delivery of this Agreement by the Parties, this Agreement shall be a valid and binding obligation of the Company, enforceable against it in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally.

17. Mutual Non-Disparagement. Neither the Company nor Executive shall make any oral or written statement about the other Party which is intended or reasonably likely to disparage the other Party, or otherwise degrade the other Party's reputation in the business or legal community or in the telecommunications industry.

18. Foreign Corrupt Practices Act. Executive agrees to comply in all material respects with the applicable provisions of the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"), which provides generally that: under no circumstances will foreign officials, representatives, political parties or holders of public offices be offered, promised or

paid any money, remuneration, things of value, or provided any other benefit, direct or indirect, in connection with obtaining or maintaining contracts or orders hereunder. When any representative, employee, agent, or other individual or organization associated with Executive is required to perform any obligation related to or in connection with this Agreement, the substance of this section shall be imposed upon such person and included in any agreement between Executive and any such person. A material violation by Executive of the provisions of the FCPA shall constitute a material breach of this Agreement and shall entitle the Company to terminate Executive's employment for Cause in accordance with Section 10(a)(iii).

19. Purchases and Sales of the Company's Securities. Executive has read and agrees to comply in all respects with the Company's Policy Regarding the Purchase and Sale of the Company's Securities by Employees (the "Policy"), as the Policy may be amended from time to time. Specifically, and without limitation, Executive agrees that Executive shall not purchase or sell stock in the Company at any time (a) that Executive possesses material non-public information about the Company or any of its businesses; and (b) during any "Trading Blackout Period" as may be determined by the Company as set forth in the Policy from time to time.

21. Withholding. Anything to the contrary notwithstanding, all payments required to be made by the Company hereunder to Executive or his estate or beneficiary shall be subject to the withholding of such amounts, if any, relating to tax and other payroll deductions as the Company may reasonably determine it should withhold pursuant to applicable law or regulation, and other withholding amounts authorized by Executive.

22. Notices. Any written notice required by this Agreement will be deemed provided and delivered to the intended recipient when (a) delivered in person by hand; (b) on the date of transmission, if delivered by confirmed facsimile; (c) three (3) calendar days after being sent via U.S. certified mail, return receipt requested; or (d) the calendar day after being sent via overnight courier, in each case when such notice is properly addressed to the following address and with all postage and similar fees having been paid in advance:

If to the Company: Charter Communications, Inc.
400 Atlantic Street
Stamford, Connecticut 06901
Attention: General Counsel

Facsimile: (203) 564-1377

If to Executive, to the home address and facsimile number of Executive most recently on file in the records of the Company;

Either Party may change the address to which notices, requests, demands and other communications to such Party shall be delivered personally or mailed by giving written notice to the other Party in the manner described above.

23. Binding Effect. This Agreement shall be for the benefit of and binding upon the Parties hereto and their respective heirs, personal representatives, legal representatives, successors and, where applicable, assigns.

24. Entire Agreement. This Agreement contains the entire agreement among the Parties with respect to its specific subject matter and supersedes any prior oral and written communications, agreements and understandings among the Parties concerning the specific subject matter hereof, including, without limitation, the Prior Employment Agreement. This Agreement may not be modified, amended, altered, waived or rescinded in any manner, except by written instrument signed by both of the Parties hereto that expressly refers to the provision of this Agreement that is being modified, amended, altered, waived or rescinded; provided, however, that the waiver by either Party of a breach or compliance with any provision of this Agreement shall not operate nor be construed as a waiver of any subsequent breach or compliance.

25. Severability. In case any one or more of the provisions of this Agreement shall be held by any court of competent jurisdiction or any arbitrator selected in accordance with the terms hereof to be illegal, invalid or unenforceable in any respect, such provision shall have no force and effect, but such holding shall not affect the legality, validity or enforceability of any other provision of this Agreement; provided that the provisions held illegal, invalid or unenforceable do not reflect or manifest a fundamental benefit bargained for by a Party hereto.

26. Assignment. Without limitation of Executive's right to terminate for Good Reason under Section 10(a)(iv), this Agreement can be assigned by the Company only to a company that controls, is controlled by, or is under common control with the Company and which assumes all of the Company's obligations hereunder. The duties and covenants of Executive under this Agreement, being personal, may not be assigned or delegated except that Executive may assign payments due hereunder to a trust established for the benefit of Executive's family or to Executive's estate or to any partnership or trust entered into by Executive and/or Executive's immediate family members (meaning Executive's spouse and lineal descendants). This Agreement shall be binding in all respects on permissible assignees.

27. Notification. In order to preserve the Company's rights under this Agreement, the Company is authorized to advise any third party with whom Executive may become employed or enter into any business or contractual relationship with, or whom Executive may contact for any such purpose, of the existence of this Agreement and its terms, and the Company shall not be liable for doing so.

28. Choice of Law/Jurisdiction. This Agreement is deemed to be accepted and entered into in Delaware. Executive and the Company intend and hereby acknowledge that jurisdiction over disputes with regard to this Agreement, and over all aspects of the relationship between the Parties, shall be governed by the laws of the State of Delaware without giving effect to its rules governing conflicts of laws. With respect to orders in aid or enforcement of arbitration awards and injunctive relief, venue and jurisdiction are proper in any county in Delaware, and (if federal jurisdiction exists) any United States District Court in Delaware, and the Parties waive all objections to jurisdiction and venue in any such forum and any defense that such forum is not the most convenient forum.

29. Arbitration. Any claim or dispute between the Parties arising out of or relating to this Agreement, any other agreement between the Parties, Executive's employment with the Company, or any termination thereof (collectively, "Covered Claims") shall (except to the extent

otherwise provided in Section 15(e) with respect to certain requests for injunctive relief) be resolved by binding confidential arbitration, to be held in Wilmington, Delaware, before a panel of three arbitrators in accordance with the National Rules for Resolution of Employment Disputes of the American Arbitration Association and this Section 29. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Pending the resolution of any Covered Claim, Executive (and his beneficiaries) shall continue to receive all payments and benefits due under this Agreement or otherwise, except to the extent that the arbitrators otherwise provide. The Company shall reimburse Executive for all costs and expenses (including, without limitation, legal, tax and accounting fees) incurred by him in any arbitration under this Section 29, to the extent he substantially prevails in any such arbitration.

30. Section Headings. The section headings contained in this Agreement are for reference purposes only and shall not affect in any manner the meaning or interpretation of this Agreement.

31. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. This Agreement may also be executed by delivery of facsimile or ".pdf" signatures, which shall be effective for all purposes.

32. Section 409A Compliance.

(a) This Agreement is intended to comply with Section 409A of the Code or an exemption thereto, and, to the extent necessary in order to avoid the imposition of a penalty tax on Executive under Section 409A of the Code, payments may only be made under this Agreement upon an event and in a manner permitted by Section 409A of the Code. Any payments or benefits that are provided upon a termination of employment shall, to the extent necessary in order to avoid the imposition of a penalty tax on Executive under Section 409A of the Code, not be provided unless such termination constitutes a "separation from service" within the meaning of Section 409A of the Code. Any payments that qualify for the "short term deferral" exception or another exception under Section 409A of the Code shall be paid under the applicable exception. Notwithstanding anything in this Agreement to the contrary, if Executive is considered a "specified employee" (as defined in Section 409A of the Code), any amounts paid or provided under this Agreement shall, to the extent necessary in order to avoid the imposition of a penalty tax on Executive under Section 409A of the Code, be delayed for six (6) months after Executive's "separation from service" within the meaning of Section 409A of the Code, and the accumulated amounts shall be paid in a lump sum within ten (10) calendar days after the end of the six (6)-month period. If Executive dies during the six (6)-month postponement period prior to the payment of benefits, the amounts the payment of which is deferred on account of Section 409A of the Code shall be paid to the personal representative of Executive's estate within sixty (60) calendar days after the date of Executive's death.

(b) For purposes of Section 409A of the Code, the right to a series of installment payments under this Agreement shall be treated as a right to a series of separate payments. In no event may Executive, directly or indirectly, designate the calendar year of a payment. All reimbursements and in kind benefits provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A of the Code, including, where

applicable, the requirement that (i) any reimbursement is for expenses incurred during the period of time specified in this Agreement, (ii) the amount of expenses eligible for reimbursement, or in kind benefits provided, during a calendar year may not affect the expenses eligible for reimbursement, or in kind benefits to be provided, in any other calendar year, (iii) the reimbursement of an eligible expense will be made no later than the last calendar day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement or in kind benefits is not subject to liquidation or exchange for another benefit.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first above written.

CHARTER COMMUNICATIONS, INC.

By: /s/ Paul Marchand_________________
Print Name: Paul Marchand_____________
Title: Executive Vice President, Chief Human Resources Officer

EXECUTIVE

/s/ Christopher L. Winfrey________________
Name: Christopher L. Winfrey

EXHIBIT A

RELEASE

This Release of Claims (this "Release") is entered into as of the "Date of Termination" (as defined in that certain Employment Agreement, dated as of November 2, 2016, to which Christopher L. Winfrey ("Executive") and CHARTER COMMUNICATIONS, INC., a Delaware corporation (the "Company"), are parties, as such agreement is from time to time amended in accordance with its terms (the "Employment Agreement").

1. Release of Claims by Executive.

(a) Pursuant to Section 11(h) of the Employment Agreement, Executive, with the intention of binding himself and his heirs, executors, administrators and assigns (collectively, and together with Executive, the "Executive Releasors"), hereby releases, remises, acquits and forever discharges the Company and each of its subsidiaries and affiliates (the "Company Affiliated Group"), and their past and present directors, employees, agents, attorneys, accountants, representatives, plan fiduciaries, and the successors, predecessors and assigns of each of the foregoing (collectively, and together with the members of the Company Affiliated Group, the "Company Released Parties"), of and from any and all claims, actions, causes of action, complaints, charges, demands, rights, damages, debts, sums of money, accounts, financial obligations, suits, expenses, attorneys' fees and liabilities of whatever kind or nature in law, equity or otherwise, whether accrued, absolute, contingent, unliquidated or otherwise and whether now known or unknown, suspected or unsuspected, that arise out of, or relate in any way to, events occurring on or before the date hereof relating to Executive's employment or the termination of such employment (collectively, "Released Claims") and that Executive, individually or as a member of a class, now has, owns or holds, or has at any time heretofore had, owned or held, against any Company Released Party in any capacity, including any and all Released Claims (i) arising out of or in any way connected with Executive's service to any member of the Company Affiliated Group (or the predecessors thereof) in any capacity (including as an employee, officer or director), or the termination of such service in any such capacity, (ii) for severance or vacation benefits, unpaid wages, salary or incentive payments, (iii) for breach of contract, wrongful discharge, impairment of economic opportunity, defamation, intentional infliction of emotional harm or other tort, (iv) for any violation of applicable federal, state and local labor and employment laws (including all laws concerning unlawful and unfair labor and employment practices) and (v) for employment discrimination under any applicable federal, state or local statute, provision, order or regulation, and including, without limitation, any claim under Title VII of the Civil Rights Act of 1964 ("Title VII"), the Age Discrimination in Employment Act ("ADEA") and any similar or analogous state statute, excepting only that no claim in respect of any of the following rights shall constitute a Released Claim:

(1) any right arising under, or preserved by, this Release or the Employment Agreement;

(2) for avoidance of doubt, any right to indemnification under (i) applicable corporate law, (ii) the by-laws or certificate of incorporation of any Company Released Party,

(iii) any other agreement between Executive and a Company Released Party or (iv) as an insured under any director's and officer's liability insurance policy now or previously in force; or

(3) for avoidance of doubt, any claim for benefits under any health, disability, retirement, life insurance or similar employee benefit plan of the Company Affiliated Group.

(b) No Executive Releasor shall file or cause to be filed any action, suit, claim, charge or proceeding with any governmental agency, court or tribunal relating to any Released Claim within the scope of this Section 1 (each, individually, a "Proceeding"), and no Executive Releasor shall participate voluntarily in any Proceeding; provided, however, and subject to the immediately following sentence, nothing set forth herein is intended to or shall interfere with Executive's right to participate in a Proceeding with any appropriate federal, state, or local government agency enforcing discrimination laws, nor shall this Agreement prohibit Executive from cooperating with any such agency in its investigation. Executive waives any right he may have to benefit in any manner from any relief (whether monetary or otherwise) arising out of any Proceeding.

(c) In the event any Proceeding within the scope of this Section 1 is brought by any government agency, putative class representative or other third Party to vindicate any alleged rights of Executive, (i) Executive shall, except to the extent required or compelled by law, legal process or subpoena, refrain from participating, testifying or producing documents therein, and (ii) all damages, inclusive of attorneys' fees, if any, required to be paid to Executive by the Company as a consequence of such Proceeding shall be repaid to the Company by Executive within ten (10) calendar days of his receipt thereof.

(d) The amounts and other benefits set forth in Sections 11(b)(A)-(C) of the Employment Agreement, to which Executive would not otherwise be entitled, are being paid to Executive in return for Executive's execution and non-revocation of this Release and Executive's agreements and covenants contained in the Employment Agreement. Executive acknowledges and agrees that the release of claims set forth in this Section 1 is not to be construed in any way as an admission of any liability whatsoever by any Company Released Party, any such liability being expressly denied.

(e) The release of claims set forth in this Section 1 applies to any relief in respect of any Released Claim of any kind, no matter how called, including wages, back pay, front pay, compensatory damages, liquidated damages, punitive damages, damages for pain or suffering, costs, and attorney's fees and expenses. Executive specifically acknowledges that his acceptance of the terms of the release of claims set forth in this Section 1 is, among other things, a specific waiver of his rights, claims and causes of action under Title VII, ADEA and any state or local law or regulation in respect of discrimination of any kind; provided, however, that nothing herein shall be deemed, nor does anything contained herein purport, to be a waiver of any right or claim or cause of action which by law Executive is not permitted to waive.

2. Voluntary Execution of Release.

BY HIS SIGNATURE BELOW, EXECUTIVE ACKNOWLEDGES THAT:

(a) HE HAS RECEIVED A COPY OF THIS RELEASE AND WAS OFFERED A PERIOD OF TWENTY-ONE (21) DAYS TO REVIEW AND CONSIDER IT;

(b) IF HE SIGNS THIS RELEASE PRIOR TO THE EXPIRATION OF TWENTY-ONE (21) CALENDAR DAYS, HE KNOWINGLY AND VOLUNTARILY WAIVES AND GIVES UP THIS RIGHT OF REVIEW;

(c) HE HAS THE RIGHT TO REVOKE THIS RELEASE FOR A PERIOD OF SEVEN (7) CALENDAR DAYS AFTER HE SIGNS IT BY MAILING OR DELIVERING A WRITTEN NOTICE OF REVOCATION TO THE COMPANY NO LATER THAN THE CLOSE OF BUSINESS ON THE SEVENTH CALENDAR DAY AFTER THE DAY ON WHICH HE SIGNED THIS RELEASE;

(d) THIS RELEASE SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THE FOREGOING SEVEN DAY REVOCATION PERIOD HAS EXPIRED WITHOUT THE RELEASE HAVING BEEN REVOKED;

(e) THIS RELEASE WILL BE FINAL AND BINDING AFTER THE EXPIRATION OF THE FOREGOING REVOCATION PERIOD REFERRED TO IN SECTION 2(c), AND FOLLOWING SUCH REVOCATION PERIOD EXECUTIVE AGREES NOT TO CHALLENGE ITS ENFORCEABILITY;

(f) HE IS AWARE OF HIS RIGHT TO CONSULT AN ATTORNEY, HAS BEEN ADVISED IN WRITING TO CONSULT WITH AN ATTORNEY, AND HAS HAD THE OPPORTUNITY TO CONSULT WITH AN ATTORNEY, IF DESIRED, PRIOR TO SIGNING THIS RELEASE;

(g) NO PROMISE OR INDUCEMENT FOR THIS RELEASE HAS BEEN MADE EXCEPT AS SET FORTH IN THE EMPLOYMENT AGREEMENT AND THIS RELEASE; AND

(h) HE HAS CAREFULLY READ THIS RELEASE, ACKNOWLEDGES THAT HE HAS NOT RELIED ON ANY REPRESENTATION OR STATEMENT, WRITTEN OR ORAL, NOT SET FORTH IN THIS DOCUMENT OR THE EMPLOYMENT AGREEMENT, AND WARRANTS AND REPRESENTS THAT HE IS SIGNING THIS RELEASE KNOWINGLY AND VOLUNTARILY.

3. Miscellaneous.

The provisions of the Employment Agreement relating to representations, successors, notices, amendments/waivers, headings, severability, choice of law, references, arbitration and counterparts/faxed signatures, shall apply to this Release as if set fully forth in full herein, with references in such Sections to “this Agreement” being deemed, as appropriate, to be references to this Release. For avoidance of doubt, this Section 3 has been included in this Release solely for

the purpose of avoiding the need to repeat herein the full text of the referenced provisions of the Employment Agreement.

IN WITNESS WHEREOF, Executive has acknowledged, executed and delivered this Release on the date indicated below.

/s/ Christopher L. Winfrey____________________________
Christopher L. Winfrey

Date: November 2, 2016____________________________

EXHIBIT 10.3

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this "Agreement"), by and among Charter Communications, Inc., a Delaware corporation (the "Company"), and Jonathan Hargis ("Executive"), is dated as of November 2, 2016.

RECITALS:

WHEREAS, it is the desire of the Company to assure itself of the continued services of Executive by continuing to engage Executive as its Executive Vice President and Chief Marketing Officer and the Executive desires to serve the Company on the terms herein provided;

WHEREAS, Executive and the Company are party to an employment agreement dated and effective as of April 9, 2014 (the "Prior Employment Agreement");

WHEREAS, Executive and the Company (the "Parties") desire to enter into this Agreement, as an amendment and restatement of the Prior Employment Agreement in order for the Company and its affiliates to continue to engage the services of Executive and Executive desires to continue to serve the Company on the terms herein provided; and

WHEREAS, Executive's agreement to the terms and conditions of Sections 13, 14 and 15 are a material and essential condition of Executive's employment with the Company under the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and of the respective covenants and agreements set forth below, the Parties agree as follows:

1. Certain Definitions.

(a) "Annual Base Salary" shall have the meaning set forth in Section 5.

(b) "Board" shall mean the Board of Directors of the Company.

(c) "Bonus" shall have the meaning set forth in Section 6.

(d) The Company shall have "Cause" to terminate Executive's employment hereunder upon:

(i) Executive's willful breach of a material obligation (which, if curable, is not cured within ten (10) business days after the Company provides written notice of such breach) or representation under this Agreement, Executive's willful breach of any fiduciary duty to the Company, which, if curable, is not cured within ten (10) business days after the Company provides written notice of such breach; or any act of fraud or willful and material misrepresentation or concealment upon, to or from the Company or the Board;

(ii) Executive's willful failure to comply in any material respect with (A) the Company's Code of Conduct in effect from time to time and applicable to officers

and/or employees generally, or (B) any written Company policy, if such policy is material to the effective performance by Executive of Executive's duties under this Agreement, and, if such failure is curable, if Executive has been given a reasonable opportunity to cure this failure to comply within a period of time which is reasonable under the circumstances but not more than the thirty (30)-day period after written notice of such failure is provided to Executive; provided that if Executive cures this failure and then fails again to comply with the same provision of the Code of Conduct or the same written Company policy, no further opportunity to cure that failure shall be required;

(iii) Executive's misappropriation (or attempted misappropriation) of a material amount of the Company's funds or property;

(iv) Executive's conviction of, the entering of a guilty plea or plea of nolo contendere or no contest (or the equivalent), with respect to (A) either a felony or a crime that materially adversely affects or could reasonably be expected to materially adversely affect the Company or its business reputation; or (B) fraud, embezzlement, any felony offense involving dishonesty or constituting a breach of trust or moral turpitude;

(v) Executive's admission of liability of, or finding of liability by a court of competent jurisdiction for, a knowing and deliberate violation of any "Securities Laws"; provided that any termination of Executive by the Company for Cause pursuant to this clause (v) based on finding of liability by the court shall be treated instead for all purposes of this Agreement as a termination by the Company without Cause, with effect as of the date of such termination, if such finding is reversed on appeal in a decision from which an appeal may not be taken or as to which the time to appeal has expired. As used herein, the term "Securities Laws" means any federal or state law, rule or regulation governing generally the issuance or exchange of securities, including without limitation the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the "Exchange Act");

(vi) Executive's illegal possession or use of any controlled substance or excessive use of alcohol, in each case at a work function, in connection with Executive's duties, or on Company premises; "excessive" meaning either repeated unprofessional use or any single event of consumption giving rise to significant intoxication or unprofessional behavior; or

(vii) Executive's willful or grossly negligent commission of any other act or willful failure to act in connection with Executive's duties as an executive of the Company which causes or should reasonably be expected (as of the time of such occurrence) to cause substantial economic injury to or substantial injury to the business reputation of the Company, including, without limitation, any material violation of the Foreign Corrupt Practices Act, as described herein below.

No termination of Executive's employment shall be effective as a termination for Cause for purposes of this Agreement or any other "Company Arrangement" (as defined in Section 11(g)) unless Executive shall first have been given written notice by the Board of its intention to terminate his employment for Cause, such notice (the "Cause Notice") to state in detail the particular circumstances that constitute the grounds on which the proposed termination for

Cause is based. If, within twenty (20) calendar days after such Cause Notice is given to Executive, the Board gives written notice to Executive confirming that, in the judgment of at least a majority of the members of the Board, Cause for terminating his employment on the basis set forth in the original Cause Notice exists, his employment hereunder shall thereupon be terminated for Cause, subject to de novo review, at Executive's election, through arbitration in accordance with Section 29. If Executive commits or is charged with committing any offense of the character or type specified in subparagraph 1(d)(iv), (v) or (vi) herein, then the Company at its option may suspend Executive with or without pay and such suspension shall not constitute "Good Reason" hereunder or for purposes of any other arrangement with the Company. If Executive subsequently is convicted of, pleads guilty or nolo contendere (or equivalent plea) to, any such offense, Executive shall immediately repay the after-tax amount of any compensation paid in cash hereunder from the date of the suspension. Notwithstanding anything to the contrary in any stock option or equity incentive plan or award agreement, all vesting and all lapsing of restrictions on restricted shares shall be tolled during the period of suspension and all unvested options and restricted shares for which the restrictions have not lapsed shall terminate and not be exercisable by or issued to Executive if during or after such suspension Executive is convicted of, pleads guilty or nolo contendere (or equivalent plea) to, any offense specified in subparagraph 1(d)(iv) or (v). However, if Executive is found not guilty of all offenses relating to his suspension, or the charges relating to all such offenses are otherwise dropped, Executive shall be entitled to immediate payment of any amounts not paid during the suspension and any awards as to which the vesting or lapsing of restrictions was tolled shall immediately vest and applicable restrictions shall immediately lapse.

(e) "Change of Control" shall mean the occurrence of any of the following events:

(i) an acquisition of any voting securities of the Company by any "Person" or "Group" (as those terms are used for purposes of Section 13(d) or 14(d) of the Exchange Act), immediately after which such Person has "Beneficial Ownership" (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of thirty-five percent (35%) or more of the combined voting power of the Company's then-outstanding voting securities; provided, however, that the acquisition of voting securities in a "Non-Control Transaction" (as hereinafter defined) shall not constitute a Change of Control;

(ii) the individuals who, as of the Effective Date, are members of the Board (the "Incumbent Board"), cease for any reason to constitute a majority of the Board; provided, however, that if the election, or nomination for election by the Company's common stockholders, of any new director (excluding any director whose nomination or election to the Board is the result of any actual or threatened proxy contest or settlement thereof) was approved by a vote of at least a majority of the Incumbent Board, such new director shall, for purposes of this Agreement, be considered as a member of the Incumbent Board;

(iii) the consummation of a merger, consolidation or reorganization with or into the Company or in which securities of the Company are issued (a "Merger"), unless such Merger is a Non-Control Transaction. A "Non-Control Transaction" shall mean a Merger where: (1) the stockholders of the Company immediately before such Merger own, directly or indirectly, immediately following such Merger more than fifty percent (50%) of the combined

voting power of the outstanding voting securities of the entity resulting from such Merger or its controlling parent entity (the "Surviving Entity"), (2) the individuals who were members of the Incumbent Board immediately prior to the execution of the agreement providing for such Merger constitute at least a majority of the members of the board of directors (or similar governing body) of the Surviving Entity, and (3) no Person other than (X) the Company, its subsidiaries or any entity controlling, controlled by or under common control with the Company (each such entity, an "affiliate") or any of their respective employee benefit plans (or any trust forming a part thereof) that, immediately prior to such Merger, was maintained by the Company or any subsidiary or affiliate of the Company, or (Y) any Person who, immediately prior to such Merger, had Beneficial Ownership of thirty-five percent (35%) or more of the then-outstanding voting securities of the Company, has Beneficial Ownership of thirty-five percent (35%) or more of the combined voting power of the outstanding voting securities or common stock of the Surviving Entity;

(iv) the approval by the holders of the Company's then-outstanding voting securities of a complete liquidation or dissolution of the Company (other than where all or substantially all of assets of the Company are transferred to or remain with subsidiaries of the Company); or

(v) the sale or other disposition of all or substantially all of the assets of the Company and its direct and indirect subsidiaries on a consolidated basis, directly or indirectly, to any Person (other than a transfer to an affiliate of the Company) unless such sale or disposition constitutes a Non-Control Transaction (with the disposition of assets being regarded as a Merger for this purpose).

Notwithstanding the foregoing, a Change of Control shall not occur solely based on a filing of a Chapter 11 reorganization proceeding of the Company.

(f) "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder.

(g) "Committee" shall mean either the Compensation and Benefits Committee of the Board, or a subcommittee of such Committee duly appointed by the Board or the Committee, or any successor to the functions thereof.

(h) "Company" shall have the meaning set forth in the preamble hereto.

(i) "Corporate Office" shall mean the Company's offices in or near the metropolitan areas of Stamford, Connecticut or New York, New York.

(j) "Date of Termination" shall mean (i) if Executive's employment is terminated by Executive's death, the date of Executive's death and (ii) if Executive's employment is terminated pursuant to Section 10(a)(ii)-(vi), the date of termination of employment as provided thereunder. After the Date of Termination, unless otherwise agreed by the Parties, Executive shall, to the extent necessary to avoid the imposition of penalty taxes under Section 409A of the Code, have no duties that are inconsistent with his having had a "separation from service" as of the Date of Termination for purposes of Section 409A of the Code.

(k) For purposes of this Agreement, Executive will be deemed to have a "Disability" if, due to illness, injury or a physical or medically recognized mental condition, (i) Executive is unable to perform Executive's duties under this Agreement with reasonable accommodation for one hundred and twenty (120) consecutive calendar days, or one hundred and eighty (180) calendar days during any twelve (12)-month period, as determined in accordance with this Section 1(k), or (ii) Executive is considered disabled for purposes of receiving/qualifying for long-term disability benefits under any group long-term disability insurance plan or policy offered by the Company in which Executive participates. The Disability of Executive will be determined by a medical doctor selected by written agreement of the Company and Executive upon the request of either Party by notice to the other, or (in the case of and with respect to any applicable long-term disability insurance policy or plan) will be determined according to the terms of the applicable long-term disability insurance policy/plan. If the Company and Executive cannot agree on the selection of a medical doctor, each of them will select a medical doctor and the two medical doctors will select a third medical doctor who will determine whether Executive has a Disability. The determination of the medical doctor selected under this Section 1(k) will be binding on both Parties. Executive must submit to a reasonable number of examinations by the medical doctor making the determination of Disability under this Section 1(k), and to other specialists designated by such medical doctor, and Executive hereby authorizes the disclosure and release to the Company of such determination and all supporting medical records. If Executive is not legally competent, Executive's legal guardian or duly authorized attorney-in-fact will act in Executive's stead under this Section 1(k) for the purposes of submitting Executive to the examinations, and providing the authorization of disclosure, required under this Section 1(k).

(l) "Effective Date" shall mean May 18, 2016.

(m) "Employment Effective Date" shall mean the date Executive's employment with the Company or a predecessor commenced.

(n) "Executive" shall have the meaning set forth in the preamble hereto.

(o) "Good Reason" shall mean any of the events described herein that occur without Executive's prior written consent: (i) any reduction in Executive's Annual Base Salary or Target Bonus; (ii) any failure to pay or provide Executive's compensation hereunder when due; (iii) any material breach by the Company of a material term of this Agreement; (iv) a material adverse change of Executive's title, authorities, duties or responsibilities, including without limitation a transfer or reassignment to another executive of material responsibilities that have been assigned to Executive and generally are part of the responsibilities and functions assigned to an Executive Vice President and Chief Marketing Officer of a public corporation, or the appointment of another individual to the same or similar titles or position; provided that this clause (iv) shall not apply following the delivery to Executive by the Company of a Non-renewal Notice at any time prior to a Change of Control and within one hundred ninety (190) days prior to the end of the term of this Agreement; (v) relocation of Executive's primary workplace to a location that is more than fifty (50) miles from the Corporate Office (in each case of clauses (i) through (v) only if Executive objects to the Company in writing within ninety (90) calendar days after first becoming aware of such event and unless the Company retracts and/or rectifies the claimed Good Reason event within thirty (30) calendar days following receipt of such notice; or

(vi) the failure of a successor to the business of the Company to assume the Company's obligations under this Agreement in the event of a Change of Control during the Term.

(p) "Notice of Termination" shall have the meaning set forth in Section 10(b).

(q) "Non-renewal Notice" shall have the meaning set forth in Section 2.

(r) "Person" shall have the meaning set forth in Sections 13(d) and 14(d)(2) of the Exchange Act.

(r) "Plan" shall mean the Company's 2009 Stock Incentive Plan, as amended by the Company from time to time, and any successor thereto.

(s) "Term" shall have the meaning set forth in Section 2.

2. Employment Term. The Company hereby continues to employ Executive, and Executive hereby accepts continued employment, under the terms and conditions hereof, for the period (the "Term") beginning on the Effective Date and terminating upon the earlier of (i) the fifth anniversary of the Effective Date (the "Initial Term") and (ii) the Date of Termination as defined in Section 1(j). The Company may, in its sole discretion, extend the term of this Agreement for additional one (1)-year periods. If the Company fails to provide Executive with at least one hundred eighty (180) days' notice prior to the end of the Initial Term or any extension thereof of the Company's intent to not renew this Agreement (the "Non-renewal Notice"), the Initial Term or any previous extension thereof shall be extended one day for each day past the one hundred eightieth (180th) day prior to the end of the Initial Term or any extension thereof on which a Non-renewal Notice is not provided; provided that, if the Company fails to provide any Non-renewal Notice and does not extend the term of this Agreement as of the last day of the Initial Term or any extension thereof, the Non-renewal Notice shall be deemed to have been given to Executive on the last day of the term of this Agreement.

3. Position and Duties.

(a) During the Term, Executive shall serve as the Executive Vice President and Chief Marketing Officer of the Company; shall have the authorities, duties and responsibilities customarily exercised by an individual serving in those positions at an entity of the size and nature of the Company; shall be assigned no duties or responsibilities that are materially inconsistent with, or that materially impair his ability to discharge, the foregoing duties and responsibilities; shall have such additional duties and responsibilities (including service with affiliates of the Company) reasonably consistent with the foregoing, as may from time to time reasonably be assigned to him.

(b) During the Term, Executive shall devote substantially all of his business time and efforts to the business and affairs of the Company. However, nothing in this Agreement shall preclude Executive from: (i) serving on the boards of a reasonable number of business entities, trade associations and charitable organizations, (ii) engaging in charitable activities and community affairs, (iii) accepting and fulfilling a reasonable number of speaking engagements, and (iv) managing his personal investments and affairs; provided that such activities do not, either individually or in the aggregate, interfere with the proper performance of his duties and

responsibilities hereunder; create a conflict of interest; or violate any provision of this Agreement; and provided further that service on the board of any business entity must be approved in advance by the Board.

4. Place of Performance. During the Term, Executive's primary office and principal workplace shall be the Corporate Office, except for necessary travel on the Company's business. The Parties acknowledge and Executive agrees that Executive is expected to commute to the Corporate Office from his principal or secondary residence whether inside or outside of the metropolitan area or areas in which the Corporate Office is located.

5. Annual Base Salary. During the Term and beginning on the Effective Date, Executive shall receive a base salary at a rate not less than $600,000 per annum (the "Annual Base Salary"), paid in accordance with the Company's general payroll practices for executives, but no less frequently than monthly. The Annual Base Salary shall compensate Executive for any position in or directorship of a Company subsidiary or affiliate that Executive holds. No less frequently than annually during the Term, the Committee, on advice of the Company's Chief Executive Officer, shall review the rate of Annual Base Salary payable to Executive, and may, in its discretion, increase the rate of Annual Base Salary payable hereunder; provided, however, that any increased rate shall thereafter be the rate of "Annual Base Salary" hereunder.

6. Bonus. Except as otherwise provided for herein, for each fiscal year or other period consistent with the Company's then-applicable normal employment practices during which Executive is employed hereunder on the last day (the "Bonus Year"), Executive shall be eligible to receive a bonus with a target amount not less than 110% of Executive's Annual Base Salary (the " Target Bonus"), with the actual bonus payout depending on the achievement of levels of performance for that year (the "Bonus") pursuant to, and as set forth in, the terms of the Company's Executive Bonus Plan as it may be amended from time to time, plus such other bonus payments, if any, as shall be determined by the Committee in its sole discretion, with such bonuses being paid on or before March 15 of the calendar year next following the Bonus Year.

7. Benefits. Executive shall be entitled to receive such benefits and to participate in such employee group benefit plans, including life, health and disability insurance policies, and financial planning services, and other perquisites and plans as are generally provided by the Company to its other senior executives in accordance with the plans, practices and programs of the Company, as amended and in effect from time to time.

8. Expenses.

(a) The Company shall promptly reimburse Executive for all reasonable and necessary expenses incurred by Executive in connection with the performance of Executive's duties as an employee of the Company. Such reimbursement is subject to the submission to the Company by Executive of appropriate documentation and/or vouchers in accordance with the customary procedures of the Company for expense reimbursement, as such procedures may be revised by the Company from time to time hereafter.

(b) The Company will, not later than thirty (30) calendar days after presentation of an invoice for fees and charges together with customary supporting documentation, reimburse Executive for his legal fees and other charges that he incurs in connection with the drafting, negotiation and implementation of this Agreement, in an amount not to exceed $10,000.

9. Vacations. Executive shall be entitled to paid vacation in accordance with the Company's vacation policy as in effect from time to time, provided that, in no event shall Executive be entitled to less than four (4) weeks of paid vacation per calendar year. Executive shall also be entitled to paid holidays and personal days in accordance with the Company's practice with respect to same as in effect from time to time.

10. Termination.

(a) Executive's employment hereunder may be terminated by the Company, on the one hand, or Executive, on the other hand, as applicable, without any breach of this Agreement, under the following circumstances:

(i) Death. Executive's employment hereunder shall automatically terminate upon Executive's death.

(ii) Disability. If Executive has incurred a Disability, the Company may give Executive written notice of its intention to terminate Executive's employment. In such event, Executive's employment with the Company shall terminate effective on the fourteenth (14th) calendar day after delivery of such notice to Executive; provided that, within the fourteen (14) calendar days after such delivery, Executive shall not have returned to full time performance of Executive's duties. Executive may provide notice to the Company of Executive's resignation on account of a Disability at any time.

(iii) Cause. The Company may terminate Executive's employment hereunder for Cause effectively immediately upon delivery of notice to Executive, after complying with any procedural requirements set forth in Section 1(d).

(iv) Good Reason. Executive may terminate Executive's employment herein with Good Reason upon (A) satisfaction of any advance notice and other procedural requirements set forth in Section 1(o) for any termination following an event described in any of Sections 1(o)(i) through (v), or (B) at least thirty (30) calendar days' advance written notice by Executive for any termination following an event described in Section 1(o)(vi).

(v) Without Cause. The Company may terminate Executive's employment hereunder without Cause upon at least thirty (30) calendar days' advance written notice to Executive.

(vi) Resignation Without Good Reason. Executive may resign Executive's employment without Good Reason upon at least thirty (30) calendar days' advance written notice to the Company.

(b) Notice of Termination. Any termination of Executive's employment by the Company or by Executive under this Section 10 (other than pursuant to Section 10(a)(i)) shall be communicated by a written notice (the "Notice of Termination") to the other Party hereto, indicating the specific termination provision in this Agreement relied upon, setting forth in reasonable detail any facts and circumstances claimed to provide a basis for termination of Executive's employment under the provision so indicated, and specifying a Date of Termination, which notice shall be delivered within the applicable time periods set forth in subsections 10(a)(ii)-(vi) (the "Notice Period"); provided that the Company may earlier terminate Executive's employment during such Notice Period and pay to Executive all Annual Base Salary, benefits and other rights due to Executive under this Agreement during such Notice Period (as if Executive continued employment) instead of employing Executive during such Notice Period.

(c) Resignation from Representational Capacities. Executive hereby acknowledges and agrees that upon Executive's termination of employment with the Company for whatever reason, Executive shall be deemed to have, and shall have in fact, effectively resigned from all executive, director, offices, or other positions with the Company or its affiliates at the time of such termination of employment, and shall return all property owned by the Company and in Executive's possession, including all hardware, files and documents, at that time. Nothing in this Agreement or elsewhere shall prevent Executive from retaining and utilizing copies of benefits plans and programs in which he retains an interest or other documents relating to his personal entitlements and obligations, his desk calendars, his rolodex, and the like, or such other records and documents as may reasonably be approved by the Company.

(d) Termination in Connection with Change of Control. If (i) Executive's employment is terminated by the Company without Cause upon, within thirty (30) calendar days before, or within thirteen (13) months after, a Change of Control, or prior to a Change of Control at the request of a prospective purchaser whose proposed purchase would constitute a Change of Control upon its completion, such termination shall be deemed to have occurred immediately before such Change of Control for purposes of Section 11(b) of this Agreement and the Plan, or (ii) Executive's employment terminates for any reason at the end of the Term following the delivery or deemed delivery to Executive of a Non-renewal Notice upon, within thirty (30) calendar days before, or within thirteen (13) months after, a Change of Control, or prior to a Change of Control at the request of such a prospective purchaser, such termination shall be deemed to be by the Company without Cause and shall be deemed to have occurred immediately before such Change of Control for purposes of Section 11(b) of this Agreement and the Plan.

11. Termination Pay.

(a) Effective upon the termination of Executive's employment, the Company will be obligated to pay Executive (or, in the event of Executive's death, Executive's designated beneficiary as defined below) only such compensation as is provided in this Section 11, except to the extent otherwise provided for in any Company stock incentive, stock option or cash award plan (including, among others, the Plan and the award agreements applicable thereunder). For purposes of this Section 11, Executive's designated beneficiary will be such individual

beneficiary or trust, located at such address, as Executive may designate by notice to the Company from time to time or, if Executive fails to give notice to the Company of such a beneficiary, Executive's estate. Notwithstanding the preceding sentence, the Company will have no duty, in any circumstances, to attempt to open an estate on behalf of Executive, to determine whether any beneficiary designated by Executive is alive or to ascertain the address of any such beneficiary, to determine the existence of any trust, to determine whether any person purporting to act as Executive's personal representative (or the trustee of a trust established by Executive) is duly authorized to act in that capacity, or to locate or attempt to locate any beneficiary, personal representative, or trustee.

(b) Termination by Executive with Good Reason or by Company without Cause. If prior to expiration of the Term, Executive terminates his employment with Good Reason, or if the Company terminates Executive's employment other than for Cause and other than for death or Disability, Executive will be entitled to receive: (i) all Annual Base Salary earned and duly payable for periods ending on or prior to the Date of Termination but unpaid as of the Date of Termination and all accrued but unused vacation days at his per-business-day rate of Annual Base Salary in effect as of the Date of Termination, which amounts shall be paid in cash in a lump sum no later than ten (10) business days following the Date of Termination; (ii) all reasonable expenses incurred by Executive through the Date of Termination that are reimbursable in accordance with Section 8, which amount shall be paid in cash within thirty (30) calendar days after the submission by Executive of receipts; and (iii) all Bonuses earned and duly payable for periods ending on or prior to the Date of Termination but unpaid as of the Date of Termination, which amounts shall be paid in cash in a lump sum no later than sixty (60) calendar days following the Date of Termination (such amounts in clauses (i), (ii) and (iii) together, the "Accrued Obligations"). If Executive signs and delivers to the Company and does not (within the applicable revocation period) revoke the Release (as defined in Section 11(h)) within sixty (60) calendar days following the Date of Termination, Executive shall also be entitled to receive the following payments and benefits in consideration for Executive abiding by the obligations set forth in Sections 13, 14 and 15:

(A) an amount equal to 2.0 times the sum of Executive's (x) Annual Base Salary and (y) Target Bonus for the calendar year in which the Date of Termination occurs, which amount shall (subject to Section 32(a)) be paid in substantially equal installments in accordance with the Company's normal payroll practices in effect from time to time commencing with the first payroll date more than sixty (60) calendar days following the Date of Termination and ending twenty-four (24) months and sixty (60) days following the Date of Termination; provided that, if a Change of Control occurs during the twenty-four (24) month period after the Date of Termination (or is deemed pursuant to Section 10(d) to have occurred immediately after such Date of Termination) and such Change of Control qualifies either as a "change in the ownership or effective control" of the Company or a "change in the ownership of a substantial portion of the assets" of the Company within the meaning of Section 409A of the Code, any amounts remaining payable to Executive hereunder shall be paid in a single lump sum immediately upon such Change of Control;

(B) a lump sum payment (in an amount net of any taxes deducted and other required withholdings) equal to twenty-four (24) times the monthly cost (as of the Date of Termination) for Executive to receive continued coverage under COBRA for health, dental and vision benefits then being provided for Executive at the Company's cost on the Date of Termination. This amount will be paid on the first payroll date immediately following the thirty (30)-calendar-day anniversary of the Date of Termination and will not take into account increases in coverage costs after the Date of Termination; and

(C) provide for up to twelve (12) months, or until Executive obtains new employment if sooner, executive-level outplacement services (which provides as part of the outplacement services the use of an office and secretarial support as near as reasonably practicable to Executive's residence).

(c) No Mitigation. Executive shall not be required to mitigate the amount of any payments provided in this Section 11 by seeking other employment or otherwise, nor shall the amount of any payment provided for in this Section 11 be reduced by any compensation earned by Executive as a result of employment by another company or business, or by profits earned by Executive from any other source at any time before or after the Date of Termination.

(d) Termination by Executive without Good Reason or by Company for Cause. If, prior to the expiration of the Term, Executive terminates Executive's employment without Good Reason or if the Company terminates Executive's employment for Cause, Executive shall be entitled to receive the Accrued Obligations at the times set forth in Sections 11(b)(i), (ii) and (iii), respectively, and Executive shall be entitled to no other compensation, bonus, payments or benefits except as expressly provided in this Section 11(d) or Section 11(f) below.

(e) Termination by Executive Following the Expiration of the Initial Term. If Executive terminates Executive's employment for any reason in 2021 following the expiration of the Initial Term, Executive shall be entitled to receive (i) the Accrued Obligations at the times set forth in Sections 11(b)(i), (ii) and (iii), respectively, and (ii) a pro-rata portion of the Bonus granted to Executive for the year in which the Date of Termination occurs equal to a fraction, the numerator of which is the number of calendar days during such year through (and including) the Date of Termination and the denominator of which is 365, with such pro-rata portion earned in an amount based on the degree to which the applicable performance financial and operational goals are ultimately achieved, as determined by the Committee on a basis applied uniformly to Executive as to other senior executives of the Company, which shall be payable at the time bonuses granted for the year in which the Date of Termination occurs are paid to other senior executives of the Company. Executive shall be entitled to no other compensation, bonus, payments or benefits except as expressly provided in this Section 11(e) or Section 11(g).

(f) Termination upon Disability or Death. If Executive's employment shall terminate by reason of Executive's Disability (pursuant to Section 10(a)(ii)) or death (pursuant to Section 10(a)(i)), the Company shall pay to Executive or Executive's estate (as applicable) the Accrued Obligations at the times set forth in Sections 11(b)(i), (ii) and (iii), respectively. In the

case of Disability, if there is a period of time during which Executive is not being paid Annual Base Salary and not receiving long-term disability insurance payments, the Company shall (subject to Section 32(a)) make interim payments to Executive equal to such unpaid disability insurance payments until the commencement of disability insurance payments.

(g) Benefits on Any Termination. On any termination of Executive's employment hereunder, he shall be entitled to other or additional benefits in accordance with the then applicable terms of applicable plans, programs, corporate governance documents, agreements and arrangements of the Company and its affiliates (excluding any such plans, programs, corporate governance documents, agreements and arrangements of the Company and its affiliates providing for severance payments and/or benefits) (collectively, "Company Arrangements").

(h) Conditions to Payments. Any and all amounts payable and benefits or additional rights provided pursuant to Sections 11(b)(A)-(C) shall be paid only if Executive signs and delivers to the Company and does not (within the applicable revocation period) revoke a general release of claims in favor of the Company, its affiliates, and their respective successors, assigns, officers, directors and representatives in substantially the form attached hereto as Exhibit A hereto (the "Release") within no later than sixty (60) calendar days following the Date of Termination. If Executive does not timely sign and deliver such Release to the Company, or if Executive timely revokes such Release, Executive hereby acknowledges and agrees that he shall forfeit any and all right to any and all amounts payable and benefits or additional rights provided pursuant to Sections 11(b)(A)-(C).

(i) Survival. Except as otherwise set forth in this Agreement, the respective rights and obligations of the Parties under this Agreement shall survive any termination of Executive's employment.

12. Excess Parachute Payment.

(a) Anything in this Agreement or the Plan to the contrary notwithstanding, to the extent that any payment, distribution or acceleration of vesting to or for the benefit of Executive by the Company (within the meaning of Section 280G of the Code and the regulations thereunder), whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise (the "Total Payments"), is or will be subject to the excise tax imposed under Section 4999 of the Code (the "Excise Tax"), then the Total Payments shall be reduced (but not below zero) to the Safe Harbor Amount (as defined below) if and to the extent that a reduction in the Total Payments would result in Executive retaining a larger amount, on an after-tax basis (taking into account federal, state and local income and employment taxes and the Excise Tax), than if Executive received the entire amount of such Total Payments in accordance with their existing terms (taking into account federal, state, and local income and employment taxes and the Excise Tax). For purposes of this Agreement, the term "Safe Harbor Amount" means the largest portion of the Total Payments that would result in no portion of the Total Payments being subject to the Excise Tax. To effectuate the foregoing, the Company shall reduce or eliminate the Total Payments by first reducing or eliminating the portion of the Total Payments which are payable in cash and then by reducing or eliminating non-cash payments, in

each case, starting with the payments to be made farthest in time from the Determination (as defined below).

(b) The determination of whether the Total Payments shall be reduced as provided in Section 12(a) and the amount of such reduction shall be made at the Company's expense by an accounting firm selected by Company from among the ten (10) largest accounting firms in the United States or by qualified independent tax counsel (the "Determining Party"); provided that Executive shall be given advance notice of the Determining Party selected by the Company, and shall have the opportunity to reject the selection, within two (2) business days of being notified of the selection, on the basis of that Determining Party's having a conflict of interest or other reasonable basis, in which case the Company shall select an alternative auditing firm among the ten largest accounting firms in the United States or alternative independent qualified tax counsel, which shall become the Determining Party. Such Determining Party shall provide its determination (the "Determination"), together with detailed supporting calculations and documentation to the Company and Executive, within ten (10) business days of the termination of Executive's employment or at such other time mutually agreed by the Company and Executive. If the Determining Party determines that no Excise Tax is payable by Executive with respect to the Total Payments, it shall furnish Executive with an opinion reasonably acceptable to Executive that no Excise Tax will be imposed with respect to any such payments and, absent manifest error, such Determination shall be binding, final and conclusive upon the Company and Executive. If the Determining Party determines that an Excise Tax would be payable, the Company shall have the right to accept the Determination as to the extent of the reduction, if any, pursuant to Section 12(a), or to have such Determination reviewed by another accounting firm selected by the Company, at the Company's expense. If the two accounting firms do not agree, a third accounting firm shall be jointly chosen by Executive and the Company, in which case the determination of such third accounting firm shall be binding, final and conclusive upon the Company and Executive.

(c) If, notwithstanding any reduction described in this Section 12, the Internal Revenue Service ("IRS") determines that Executive is liable for the Excise Tax as a result of the receipt of any of the Total Payments or otherwise, then Executive shall be obligated to pay back to the Company, within thirty (30) calendar days after a final IRS determination or in the event that Executive challenges the final IRS determination, a final judicial determination, a portion of the Total Payments equal to the "Repayment Amount." The "Repayment Amount" with respect to the payment of benefits shall be the smallest such amount, if any, as shall be required to be paid to the Company so that Executive's net after-tax proceeds with respect to the Total Payments (after taking into account the payment of the Excise Tax and all other applicable taxes imposed on the Payment) shall be maximized. The Repayment Amount shall be zero if a Repayment Amount of more than zero would not result in Executive's net after-tax proceeds with respect to the Total Payments being maximized. If the Excise Tax is not eliminated pursuant to this Section 12(c), Executive shall pay the Excise Tax.

(d) Notwithstanding any other provision of this Section 12, if (i) there is a reduction in the Total Payments as described in this Section 12, (ii) the IRS later determines that Executive is liable for the Excise Tax, the payment of which would result in the maximization of Executive's net after-tax proceeds (calculated as if Executive's benefits had not previously been reduced), and (iii) Executive pays the Excise Tax, then the Company shall pay to

Executive those payments or benefits which were reduced pursuant to this Section 12 as soon as administratively possible after Executive pays the Excise Tax (but not later than March 15 following the calendar year of the IRS determination) so that Executive's net after-tax proceeds with respect to the Total Payments are maximized.

(e) To the extent requested by Executive, the Company shall cooperate with Executive in good faith in valuing, and the Determining Party shall take into account the value of, services provided or to be provided by Executive (including, without limitation, Executive's agreeing to refrain from performing services pursuant to a covenant not to compete or similar covenant, before, on or after the date of a change in ownership or control of the Company (within the meaning of Q&A-2(b) of the final regulations under Section 280G of the Code), such that payments in respect of such services may be considered reasonable compensation within the meaning of Q&A-9 and Q&A-40 to Q&A-44 of the final regulations under Section 280G of the Code and/or exempt from the definition of the term "parachute payment" within the meaning of Q&A-2(a) of the final regulations under Section 280G of the Code in accordance with Q&A-5(a) of the final regulations under Section 280G of the Code.

13. Competition/Confidentiality.

(a) Acknowledgments by Executive. Executive acknowledges that: (i) on and following the Employment Effective Date and through the Term and as a part of Executive's employment, Executive has been and will be afforded access to Confidential Information (as defined below); (ii) public disclosure of such Confidential Information could have an adverse effect on the Company and its business; (iii) because Executive possesses substantial technical expertise and skill with respect to the Company's business, the Company desires to obtain exclusive ownership of each invention by Executive while Executive is employed by the Company, and the Company will be at a substantial competitive disadvantage if it fails to acquire exclusive ownership of each such invention by Executive; and (iv) the provisions of this Section 13 are reasonable and necessary to prevent the improper use or disclosure of Confidential Information and to provide the Company with exclusive ownership of all inventions and works made or created by Executive.

(b) Confidential Information.

(i) Executive acknowledges that on and following the Employment Effective Date and through the Term Executive has had and will have access to and may obtain, develop, or learn of Confidential Information (as defined below) under and pursuant to a relationship of trust and confidence. Executive shall hold such Confidential Information in strictest confidence and never at any time, during or after Executive's employment terminates, directly or indirectly use for Executive's own benefit or otherwise (except in connection with the performance of any duties as an employee hereunder) any Confidential Information, or divulge, reveal, disclose or communicate any Confidential Information to any unauthorized person or entity in any manner whatsoever.

(ii) As used in this Agreement, the term "Confidential Information" shall include, but not be limited to, any of the following information relating to the Company

learned by Executive on and following the Employment Effective Date and through the Term or as a result of Executive's employment with the Company:

(A) information regarding the Company's business proposals, manner of the Company's operations, and methods of selling or pricing any products or services;

(B) the identity of persons or entities actually conducting or considering conducting business with the Company, and any information in any form relating to such persons or entities and their relationship or dealings with the Company or its affiliates;

(C) any trade secret or confidential information of or concerning any business operation or business relationship;

(D) computer databases, software programs and information relating to the nature of the hardware or software and how said hardware or software is used in combination or alone;

(E) information concerning Company personnel, confidential financial information, customer or customer prospect information, information concerning subscribers, subscriber and customer lists and data, methods and formulas for estimating costs and setting prices, engineering design standards, testing procedures, research results (such as marketing surveys, programming trials or product trials), cost data (such as billing, equipment and programming cost projection models), compensation information and models, business or marketing plans or strategies, deal or business terms, budgets, vendor names, programming operations, product names, information on proposed acquisitions or dispositions, actual performance compared to budgeted performance, long range plans, internal financial information (including but not limited to financial and operating results for certain offices, divisions, departments, and key market areas that are not disclosed to the public in such form), results of internal analyses, computer programs and programming information, techniques and designs, and trade secrets;

(F) information concerning the Company's employees, officers, directors and shareholders; and

(G) any other trade secret or information of a confidential or proprietary nature.

(iii) Executive shall not make or use any notes or memoranda relating to any Confidential Information except for uses reasonably expected by Executive to be for the benefit of the Company, and will, at the Company's request, return each original and every copy of any and all notes, memoranda, correspondence, diagrams or other records, in written or other

form, that Executive may at any time have within his possession or control that contain any Confidential Information.

(iv) Notwithstanding the foregoing, Confidential Information shall not include information that has come within the public domain through no fault of or action by Executive or that has become rightfully available to Executive on a non-confidential basis from any third party, the disclosure of which to Executive does not violate any contractual or legal obligations that such third party has to the Company or its affiliates with respect to such Confidential Information. None of the foregoing obligations and restrictions applies to any part of the Confidential Information that Executive demonstrates was or became generally available to the public other than as a result of a disclosure by Executive or by any other person bound by a confidentiality obligation to the Company in respect of such Confidential Information. Further, nothing herein shall prohibit Executive from using Confidential Information to the extent necessary to exercise any legally protected whistleblower rights (including pursuant to Rule 21F under the Exchange Act).

(v) Executive will not remove from the Company's premises (except to the extent such removal is for purposes of the performance of Executive's duties at home or while traveling, or except as otherwise specifically authorized by the Company) any Company document, record, notebook, plan, model, component, device, or computer software or code, whether embodied in a disk or in any other form (collectively, the "Proprietary Items"). Executive recognizes that, as between the Company and Executive, all of the Proprietary Items, whether or not developed by Executive, are the exclusive property of the Company. Upon termination of Executive's employment by either Party, or upon the request of the Company on and following the Effective Date and through the Term, Executive will return to the Company all of the Proprietary Items in Executive's possession or subject to Executive's control, including all equipment (*e.g.*, laptop computers, cell phone, portable e-mail devices, etc.), documents, files and data, and Executive shall not retain any copies, abstracts, sketches, or other physical embodiment of any such Proprietary Items.

14. Proprietary Developments.

(a) Developments. Any and all inventions, products, discoveries, improvements, processes, methods, computer software programs, models, techniques, or formulae (collectively, hereinafter referred to as "Developments"), made, conceived, developed, or created by Executive (alone or in conjunction with others, during regular work hours or otherwise) during Executive's employment which may be directly or indirectly useful in, or relate to, the business conducted or to be conducted by the Company will be promptly disclosed by Executive to the Company and shall be the Company's exclusive property. The term "Developments" shall not be deemed to include inventions, products, discoveries, improvements, processes, methods, computer software programs, models, techniques, or formulae which were in the possession of Executive prior to the Employment Effective Date. Executive hereby transfers and assigns to the Company all proprietary rights that Executive may have or acquire in any Developments and Executive waives any other special right which Executive may have or accrue therein. Executive will execute any documents and take any actions that may be required, in the reasonable determination of the Company's counsel, to effect and confirm such assignment, transfer and waiver, to direct the issuance of patents,

trademarks, or copyrights to the Company with respect to such Developments as are to be the Company's exclusive property or to vest in the Company title to such Developments; provided, however, that the expense of securing any patent, trademark or copyright shall be borne by Company. The Parties agree that Developments shall constitute Confidential Information.

(b) Work Made for Hire. Any work performed by Executive during Executive's employment with the Company shall be considered a "Work Made for Hire" as defined in the U.S. Copyright laws, and shall be owned by and for the express benefit of the Company. In the event it should be established that such work does not qualify as a Work Made for Hire, Executive agrees to and does hereby assign to the Company all of Executive's right, title, and interest in such work product including, but not limited to, all copyrights and other proprietary rights.

15. Non-Competition and Non-Interference.

(a) Acknowledgments by Executive. Executive acknowledges and agrees that: (i) the services to be performed by Executive under this Agreement are of a special, unique, unusual, extraordinary, and intellectual character; (ii) the Company competes with other businesses that are or could be located in any part of the world; (iii) the provisions of this Section 15 are reasonable and necessary to protect the Company's business and lawful protectable interests, and do not impair Executive's ability to earn a living; and (iv) the Company has agreed to provide the severance and other benefits set forth in Sections 11(b)(A)-(C) in consideration for Executive's abiding by the obligations under this Section 15 and but for Executive's agreement to comply with such obligations, the Company would not have agreed to provide such severance and other benefits.

(b) Covenants of Executive. For purposes of this Section 15, the term "Restricted Period" shall mean the period commencing on the Effective Date and terminating on the second anniversary (or, in the case of Section 15(b)(iii), the first anniversary) of the Date of Termination. In consideration of the acknowledgments by Executive, and in consideration of the compensation and benefits to be paid or provided to Executive by the Company, Executive covenants and agrees that during the Restricted Period, Executive will not, directly or indirectly, for Executive's own benefit or for the benefit of any other person or entity other than the Company:

(i) in the United States or any other country or territory where the Company then conducts its business: engage in, operate, finance, control or be employed by a "Competitive Business" (as defined below); serve as an officer or director of a Competitive Business (regardless of where Executive then lives or conducts such activities); perform any work as an employee, consultant (other than as a member of a professional consultancy, law firm, accounting firm or similar professional enterprise that has been retained by the Competitive Business and where Executive has no direct role in such professional consultancy and maintains the confidentiality of all information acquired by Executive during his or her employment with the Company), contractor, or in any other capacity with, a Competitive Business; directly or indirectly invest or own any interest in a Competitive Business (regardless of where Executive then lives or conducts such activities); or directly or indirectly provide any services or advice to any business, person or entity who or which is engaged in a Competitive Business (other than as

a member of a professional consultancy, law firm, accounting firm or similar professional enterprise that has been retained by the Competitive Business and where Executive has no direct role in such professional consultancy and maintains the confidentiality of all information acquired by Executive during his or her employment with the Company). A "Competitive Business" is any business, person or entity who or which, anywhere within that part of the United States, or that part of any other country or territory, where the Company conducts business (A) owns or operates a cable television system; (B) provides direct television or any satellite based, telephone system based, internet based or wireless system for delivering television, music or other entertainment programming (other than as an ancillary service, such as cellular telephone providers); (C) provides telephony services using any wired connection or fixed (as opposed to mobile) wireless application; (D) provides data or internet access services; (E) offers, provides, markets or sells any service or product of a type that is offered or marketed by or directly competitive with a service or product offered or marketed by the Company at the time Executive's employment terminates and, in the case of this clause (E), which produced greater than ten percent (10%) of the Company's revenues in the calendar year immediately prior to the year in which employment terminated; or (F) who or which in any case is preparing or planning to do any of the activities described in the preceding clauses (A) through (E). The provisions of this Section 15 shall not be construed or applied (I) so as to prohibit Executive from owning not more than five percent (5%) of any class of securities that is publicly traded on any national or regional securities exchange, as long as Executive's investment is passive and Executive does not lend or provide any services or advice to such business or otherwise violate the terms of this Agreement in connection with such investment; or (II) so as to prohibit Executive from working as an employee in the cable television business for a company/business that owns or operates cable television franchises (by way of example as of the Effective Date only, Altice, Cox or Comcast), provided that the company/business is not providing cable services in any political subdivision/ geographic area where the Company has a franchise or provides cable services (other than nominal overlaps of service areas) and the company/business is otherwise not engaged in a Competitive Business, and provided that Executive does not otherwise violate the terms of this Agreement in connection with that work; and provided further that nothing in this Section 15(b)(i) shall abrogate or affect any provision regarding the effect of Executive's working for a company/business that owns or operates cable television franchises (including, as of the Effective Date only, Altice, Cox and Comcast) in any stock option or other equity award agreement between Executive and the Company;

(ii) contact, solicit or provide any service in connection with any Competitive Business to any person or entity that was a customer franchisee, or prospective customer of the Company at any time during Executive's employment (a prospective customer being one to whom the Company had made a business proposal within twelve (12) months prior to the time Executive's employment terminated); or directly solicit or encourage any customer, franchisee or subscriber of the Company to purchase any service or product of a type offered by or competitive with any product or service provided by the Company, or to reduce the amount or level of business purchased by such customer, franchisee or subscriber from the Company; or take away or procure for the benefit of any Competitive Business, any business of a type provided by or competitive with a product or service offered by the Company; or

(iii) solicit or recruit for employment, or hire or attempt to hire, any person or persons who are employed by the Company or any of its subsidiaries or affiliates, or

who were so employed at any time within a period of six (6) months immediately prior to the Date of Termination, or otherwise interfere with the relationship between any such person and the Company; nor will Executive assist anyone else in recruiting any such employee to work for another company or business or discuss with any such person his or her leaving the employ of the Company or engaging in a business activity in competition with the Company. This provision shall not apply to secretarial, clerical, custodial or maintenance employees, nor shall it prohibit Executive from providing a personal reference for the person or persons described in this subsection in response to a request for such a personal reference.

If Executive violates any covenant contained in this Section 15, then the term of the covenants in this Section shall be extended by the period of time Executive was in violation of the same.

(c) Provisions Pertaining to the Covenants. Executive recognizes that the existing business of the Company extends to various locations and areas throughout the United States and will extend hereafter to other countries and territories and agrees that the scope of this Section 15 shall extend to any part of the United States, and any other country or territory, where the Company operates or conducts business, or has concrete plans to do so at the time Executive's employment terminates. It is agreed that Executive's services hereunder are special, unique, unusual and extraordinary giving them peculiar value, the loss of which cannot be reasonably or adequately compensated for by damages, and in the event of Executive's breach of this Section, the Company shall be entitled to equitable relief by way of injunction or otherwise in addition to the cessation of payments and benefits hereunder. If any provision of Section 13, 14 or 15 is deemed to be unenforceable by a court (whether because of the subject matter of the provision, the duration of a restriction, the geographic or other scope of a restriction or otherwise), that provision shall not be rendered void but the Parties instead agree that the court shall amend and alter such provision to such lesser degree, time, scope, extent and/or territory as will grant the Company the maximum restriction on Executive's activities permitted by applicable law in such circumstances. The Company's failure to exercise its rights to enforce the provisions of this Agreement shall not be affected by the existence or non-existence of any other similar agreement for anyone else employed by the Company or by the Company's failure to exercise any of its rights under any such agreement.

(d) Notices. In order to preserve the Company's rights under this Agreement, the Company is authorized to advise any potential or future employer, any third party with whom Executive may become employed or enter into any business or contractual relationship with, and any third party whom Executive may contact for any such purpose, of the existence of this Agreement and its terms, and the Company shall not be liable for doing so.

(e) Injunctive Relief and Additional Remedy. Executive acknowledges that the injury that would be suffered by Company as a result of a breach of the provisions of this Agreement (including any provision of Sections 13, 14 and 15) would be irreparable and that an award of monetary damages to the Company for such a breach would be an inadequate remedy. Consequently, the Company will have the right, in addition to any other rights it may have, to obtain injunctive relief to restrain any breach or threatened breach or otherwise to specifically enforce any provision of this Agreement, and the Company will not be obligated to post bond or other security in seeking such relief. Without limiting the Company's rights under this Section or any other remedies of the Company, in the event of a determination by a court of competent

jurisdiction, as to which no further appeal can be taken or as to which the time to appeal has expired, that Executive has willfully breached a material obligation under Section 13, 14 or 15, (i) the Company will have the right to cease making any payments otherwise due to Executive under this Agreement and (ii) Executive will repay to the Company all amounts paid to him under this Agreement on and following the date that such breach first occurred (as determined by the court), including but not limited to the return of any stock and options (and stock purchased through the exercise of options) that first became vested following such date, and the proceeds of the sale of any such stock. Notwithstanding the foregoing, if Executive's breach of a material obligation under Section 13, 14 or 15 is curable, prior to seeking the remedies contemplated by the immediately preceding sentence, the Company shall provide Executive written notice of such breach and Executive shall be given ten (10) business days from receipt of such written notice to cure, provided, that if Executive cures such breach and then breaches again, no further opportunity to cure shall be provided.

(f) Covenants of Sections 13, 14 and 15 are Essential and Independent Covenants. The covenants by Executive in Sections 13, 14 and 15 are essential elements of this Agreement, and without Executive's agreement to comply with such covenants, the Company would not have entered into this Agreement or employed Executive. The Company and Executive have independently consulted their respective counsel and have been advised in all respects concerning the reasonableness and propriety of such covenants, with specific regard to the nature of the business conducted by the Company. Executive's covenants in Sections 13, 14 and 15 are independent covenants and the existence of any claim by Executive against the Company, under this Agreement or otherwise, will not excuse Executive's breach of any covenant in Section 13, 14 or 15. If Executive's employment hereunder is terminated, this Agreement will continue in full force and effect as is necessary or appropriate to enforce the covenants and agreements of Executive in Sections 13, 14 and 15. The Company's right to enforce the covenants in Sections 13, 14 and 15 shall not be adversely affected or limited by the Company's failure to have an agreement with another employee with provisions at least as restrictive as those contained in Section 13, 14 or 15, or by the Company's failure or inability to enforce (or agreement not to enforce) in full the provisions of any other or similar agreement containing one or more restrictions of the type specified in Sections 13, 14 and 15.

16. Representations and Further Agreements.

(a) Executive represents, warrants and covenants to the Company that Executive is knowledgeable and sophisticated as to business matters, including the subject matter of this Agreement, and that prior to assenting to the terms of this Agreement, or giving the representations and warranties herein, Executive has been given a reasonable time to review it and has consulted with counsel of Executive's choice; and

(b) During Executive's employment with the Company and subsequent to the cessation thereof, Executive will reasonably cooperate with Company, and furnish any and all complete and truthful information, testimony or affidavits in connection with any matter that arose during Executive's employment, that in any way relates to the business or operations of the Company or any of its parent or subsidiary corporations or affiliates, or of which Executive may have any knowledge or involvement; and will consult with and provide information to the Company and its representatives concerning such matters. Executive shall reasonably cooperate

with the Company in the protection and enforcement of any intellectual property rights that relate to services performed by Executive for Company, whether under the terms of this Agreement or prior to the execution of this Agreement. This shall include without limitation executing, acknowledging, and delivering to the Company all documents or papers that may be necessary to enable the Company to publish or protect such intellectual property rights. Subsequent to the cessation of Executive's employment with the Company, the Parties will make their best efforts to have such cooperation performed at reasonable times and places and in a manner as not to unreasonably interfere with any other employment in which Executive may then be engaged. Nothing in this Agreement shall be construed or interpreted as requiring Executive to provide any testimony, sworn statement or declaration that is not complete and truthful. If the Company requires Executive to travel outside the metropolitan area in the United States where Executive then resides to provide any testimony or otherwise provide any such assistance, then the Company will reimburse Executive for any reasonable, ordinary and necessary travel and lodging expenses incurred by Executive to do so; provided that Executive submits all documentation required under the Company's standard travel expense reimbursement policies and as otherwise may be required to satisfy any requirements under applicable tax laws for the Company to deduct those expenses. Nothing in this Agreement shall be construed or interpreted as requiring Executive to provide any testimony or affidavit that is not complete and truthful.

(c) The Company represents and warrants that (i) it is fully authorized by action of the Board (and of any other Person or body whose action is required) to enter into this Agreement and to perform its obligations under it, (ii) the execution, delivery and performance of this Agreement by it does not violate any applicable law, regulation, order, judgment or decree or any agreement, arrangement, plan or corporate governance document to which it is a party or by which it is bound, and (iii) upon the execution and delivery of this Agreement by the Parties, this Agreement shall be a valid and binding obligation of the Company, enforceable against it in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally.

17. Mutual Non-Disparagement. Neither the Company nor Executive shall make any oral or written statement about the other Party which is intended or reasonably likely to disparage the other Party, or otherwise degrade the other Party's reputation in the business or legal community or in the telecommunications industry.

18. Foreign Corrupt Practices Act. Executive agrees to comply in all material respects with the applicable provisions of the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"), which provides generally that: under no circumstances will foreign officials, representatives, political parties or holders of public offices be offered, promised or paid any money, remuneration, things of value, or provided any other benefit, direct or indirect, in connection with obtaining or maintaining contracts or orders hereunder. When any representative, employee, agent, or other individual or organization associated with Executive is required to perform any obligation related to or in connection with this Agreement, the substance of this section shall be imposed upon such person and included in any agreement between Executive and any such person. A material violation by Executive of the provisions of

the FCPA shall constitute a material breach of this Agreement and shall entitle the Company to terminate Executive's employment for Cause in accordance with Section 10(a)(iii).

19. Purchases and Sales of the Company's Securities. Executive has read and agrees to comply in all respects with the Company's Policy Regarding the Purchase and Sale of the Company's Securities by Employees (the "Policy"), as the Policy may be amended from time to time. Specifically, and without limitation, Executive agrees that Executive shall not purchase or sell stock in the Company at any time (a) that Executive possesses material non-public information about the Company or any of its businesses; and (b) during any "Trading Blackout Period" as may be determined by the Company as set forth in the Policy from time to time.

21. Withholding. Anything to the contrary notwithstanding, all payments required to be made by the Company hereunder to Executive or his estate or beneficiary shall be subject to the withholding of such amounts, if any, relating to tax and other payroll deductions as the Company may reasonably determine it should withhold pursuant to applicable law or regulation, and other withholding amounts authorized by Executive.

22. Notices. Any written notice required by this Agreement will be deemed provided and delivered to the intended recipient when (a) delivered in person by hand; (b) on the date of transmission, if delivered by confirmed facsimile; (c) three (3) calendar days after being sent via U.S. certified mail, return receipt requested; or (d) the calendar day after being sent via overnight courier, in each case when such notice is properly addressed to the following address and with all postage and similar fees having been paid in advance:

If to the Company: Charter Communications, Inc.
400 Atlantic Street
Stamford, Connecticut 06901
Attention: General Counsel

Facsimile: (203) 564-1377

If to Executive, to the home address and facsimile number of Executive most recently on file in the records of the Company;

Either Party may change the address to which notices, requests, demands and other communications to such Party shall be delivered personally or mailed by giving written notice to the other Party in the manner described above.

23. Binding Effect. This Agreement shall be for the benefit of and binding upon the Parties hereto and their respective heirs, personal representatives, legal representatives, successors and, where applicable, assigns.

24. Entire Agreement. This Agreement contains the entire agreement among the Parties with respect to its specific subject matter and supersedes any prior oral and written communications, agreements and understandings among the Parties concerning the specific subject matter hereof, including, without limitation, the Prior Employment Agreement. This Agreement may not be modified, amended, altered, waived or rescinded in any manner, except by written instrument signed by both of the Parties hereto that expressly refers to the provision

of this Agreement that is being modified, amended, altered, waived or rescinded; provided, however, that the waiver by either Party of a breach or compliance with any provision of this Agreement shall not operate nor be construed as a waiver of any subsequent breach or compliance.

25. Severability. In case any one or more of the provisions of this Agreement shall be held by any court of competent jurisdiction or any arbitrator selected in accordance with the terms hereof to be illegal, invalid or unenforceable in any respect, such provision shall have no force and effect, but such holding shall not affect the legality, validity or enforceability of any other provision of this Agreement; provided that the provisions held illegal, invalid or unenforceable do not reflect or manifest a fundamental benefit bargained for by a Party hereto.

26. Assignment. Without limitation of Executive's right to terminate for Good Reason under Section 10(a)(iv), this Agreement can be assigned by the Company only to a company that controls, is controlled by, or is under common control with the Company and which assumes all of the Company's obligations hereunder. The duties and covenants of Executive under this Agreement, being personal, may not be assigned or delegated except that Executive may assign payments due hereunder to a trust established for the benefit of Executive's family or to Executive's estate or to any partnership or trust entered into by Executive and/or Executive's immediate family members (meaning Executive's spouse and lineal descendants). This Agreement shall be binding in all respects on permissible assignees.

27. Notification. In order to preserve the Company's rights under this Agreement, the Company is authorized to advise any third party with whom Executive may become employed or enter into any business or contractual relationship with, or whom Executive may contact for any such purpose, of the existence of this Agreement and its terms, and the Company shall not be liable for doing so.

28. Choice of Law/Jurisdiction. This Agreement is deemed to be accepted and entered into in Delaware. Executive and the Company intend and hereby acknowledge that jurisdiction over disputes with regard to this Agreement, and over all aspects of the relationship between the Parties, shall be governed by the laws of the State of Delaware without giving effect to its rules governing conflicts of laws. With respect to orders in aid or enforcement of arbitration awards and injunctive relief, venue and jurisdiction are proper in any county in Delaware, and (if federal jurisdiction exists) any United States District Court in Delaware, and the Parties waive all objections to jurisdiction and venue in any such forum and any defense that such forum is not the most convenient forum.

29. Arbitration. Any claim or dispute between the Parties arising out of or relating to this Agreement, any other agreement between the Parties, Executive's employment with the Company, or any termination thereof (collectively, "Covered Claims") shall (except to the extent otherwise provided in Section 15(e) with respect to certain requests for injunctive relief) be resolved by binding confidential arbitration, to be held in Wilmington, Delaware, before a panel of three arbitrators in accordance with the National Rules for Resolution of Employment Disputes of the American Arbitration Association and this Section 29. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Pending the resolution of any Covered Claim, Executive (and his beneficiaries) shall continue to receive all

payments and benefits due under this Agreement or otherwise, except to the extent that the arbitrators otherwise provide. The Company shall reimburse Executive for all costs and expenses (including, without limitation, legal, tax and accounting fees) incurred by him in any arbitration under this Section 29, to the extent he substantially prevails in any such arbitration.

30. Section Headings. The section headings contained in this Agreement are for reference purposes only and shall not affect in any manner the meaning or interpretation of this Agreement.

31. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. This Agreement may also be executed by delivery of facsimile or ".pdf" signatures, which shall be effective for all purposes.

32. Section 409A Compliance.

(a) This Agreement is intended to comply with Section 409A of the Code or an exemption thereto, and, to the extent necessary in order to avoid the imposition of a penalty tax on Executive under Section 409A of the Code, payments may only be made under this Agreement upon an event and in a manner permitted by Section 409A of the Code. Any payments or benefits that are provided upon a termination of employment shall, to the extent necessary in order to avoid the imposition of a penalty tax on Executive under Section 409A of the Code, not be provided unless such termination constitutes a "separation from service" within the meaning of Section 409A of the Code. Any payments that qualify for the "short term deferral" exception or another exception under Section 409A of the Code shall be paid under the applicable exception. Notwithstanding anything in this Agreement to the contrary, if Executive is considered a "specified employee" (as defined in Section 409A of the Code), any amounts paid or provided under this Agreement shall, to the extent necessary in order to avoid the imposition of a penalty tax on Executive under Section 409A of the Code, be delayed for six (6) months after Executive's "separation from service" within the meaning of Section 409A of the Code, and the accumulated amounts shall be paid in a lump sum within ten (10) calendar days after the end of the six (6)-month period. If Executive dies during the six (6)-month postponement period prior to the payment of benefits, the amounts the payment of which is deferred on account of Section 409A of the Code shall be paid to the personal representative of Executive's estate within sixty (60) calendar days after the date of Executive's death.

(b) For purposes of Section 409A of the Code, the right to a series of installment payments under this Agreement shall be treated as a right to a series of separate payments. In no event may Executive, directly or indirectly, designate the calendar year of a payment. All reimbursements and in kind benefits provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A of the Code, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during the period of time specified in this Agreement, (ii) the amount of expenses eligible for reimbursement, or in kind benefits provided, during a calendar year may not affect the expenses eligible for reimbursement, or in kind benefits to be provided, in any other calendar year, (iii) the reimbursement of an eligible expense will be made no later than the last calendar day of the

calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement or in kind benefits is not subject to liquidation or exchange for another benefit.

[Signature Page Follows]

EXHIBIT A

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first above written.

CHARTER COMMUNICATIONS, INC.

By: /s/ Paul Marchand__________________
Print Name: Paul Marchand______________
Title: Executive Vice President, Chief Human Resources Officer

EXECUTIVE

/s/ Jonathan Hargis______________________
Name: Jonathan Hargis

EXHIBIT A

RELEASE

This Release of Claims (this "Release") is entered into as of the "Date of Termination" (as defined in that certain Employment Agreement, dated and effective as of November 2, 2016, to which Jonathan Hargis ("Executive") and CHARTER COMMUNICATIONS, INC., a Delaware corporation (the "Company"), are parties, as such agreement is from time to time amended in accordance with its terms (the "Employment Agreement").

1. Release of Claims by Executive.

(a) Pursuant to Section 11(h) of the Employment Agreement, Executive, with the intention of binding himself and his heirs, executors, administrators and assigns (collectively, and together with Executive, the "Executive Releasors"), hereby releases, remises, acquits and forever discharges the Company and each of its subsidiaries and affiliates (the "Company Affiliated Group"), and their past and present directors, employees, agents, attorneys, accountants, representatives, plan fiduciaries, and the successors, predecessors and assigns of each of the foregoing (collectively, and together with the members of the Company Affiliated Group, the "Company Released Parties"), of and from any and all claims, actions, causes of action, complaints, charges, demands, rights, damages, debts, sums of money, accounts, financial obligations, suits, expenses, attorneys' fees and liabilities of whatever kind or nature in law, equity or otherwise, whether accrued, absolute, contingent, unliquidated or otherwise and whether now known or unknown, suspected or unsuspected, that arise out of, or relate in any way to, events occurring on or before the date hereof relating to Executive's employment or the termination of such employment (collectively, "Released Claims") and that Executive, individually or as a member of a class, now has, owns or holds, or has at any time heretofore had, owned or held, against any Company Released Party in any capacity, including any and all Released Claims (i) arising out of or in any way connected with Executive's service to any member of the Company Affiliated Group (or the predecessors thereof) in any capacity (including as an employee, officer or director), or the termination of such service in any such capacity, (ii) for severance or vacation benefits, unpaid wages, salary or incentive payments, (iii) for breach of contract, wrongful discharge, impairment of economic opportunity, defamation, intentional infliction of emotional harm or other tort, (iv) for any violation of applicable federal, state and local labor and employment laws (including all laws concerning unlawful and unfair labor and employment practices) and (v) for employment discrimination under any applicable federal, state or local statute, provision, order or regulation, and including, without limitation, any claim under Title VII of the Civil Rights Act of 1964 ("Title VII"), the Age Discrimination in Employment Act ("ADEA") and any similar or analogous state statute, excepting only that no claim in respect of any of the following rights shall constitute a Released Claim:

(1) any right arising under, or preserved by, this Release or the Employment Agreement;

(2) for avoidance of doubt, any right to indemnification under (i) applicable corporate law, (ii) the by-laws or certificate of incorporation of any Company Released Party, (iii) any other agreement between Executive and a Company Released Party or (iv) as an insured under any director's and officer's liability insurance policy now or previously in force; or

(3) for avoidance of doubt, any claim for benefits under any health, disability, retirement, life insurance or similar employee benefit plan of the Company Affiliated Group.

(b) No Executive Releasor shall file or cause to be filed any action, suit, claim, charge or proceeding with any governmental agency, court or tribunal relating to any Released Claim within the scope of this Section 1 (each, individually, a "Proceeding"), and no Executive Releasor shall participate voluntarily in any Proceeding; provided, however, and subject to the immediately following sentence, nothing set forth herein is intended to or shall interfere with Executive's right to participate in a Proceeding with any appropriate federal, state, or local government agency enforcing discrimination laws, nor shall this Agreement prohibit Executive from cooperating with any such agency in its investigation. Executive waives any right he may have to benefit in any manner from any relief (whether monetary or otherwise) arising out of any Proceeding.

(c) In the event any Proceeding within the scope of this Section 1 is brought by any government agency, putative class representative or other third Party to vindicate any alleged rights of Executive, (i) Executive shall, except to the extent required or compelled by law, legal process or subpoena, refrain from participating, testifying or producing documents therein, and (ii) all damages, inclusive of attorneys' fees, if any, required to be paid to Executive by the Company as a consequence of such Proceeding shall be repaid to the Company by Executive within ten (10) calendar days of his receipt thereof.

(d) The amounts and other benefits set forth in Sections 11(b)(A)-(C) of the Employment Agreement, to which Executive would not otherwise be entitled, are being paid to Executive in return for Executive's execution and non-revocation of this Release and Executive's agreements and covenants contained in the Employment Agreement. Executive acknowledges and agrees that the release of claims set forth in this Section 1 is not to be construed in any way as an admission of any liability whatsoever by any Company Released Party, any such liability being expressly denied.

(e) The release of claims set forth in this Section 1 applies to any relief in respect of any Released Claim of any kind, no matter how called, including wages, back pay, front pay, compensatory damages, liquidated damages, punitive damages, damages for pain or suffering, costs, and attorney's fees and expenses. Executive specifically acknowledges that his acceptance of the terms of the release of claims set forth in this Section 1 is, among other things, a specific waiver of his rights, claims and causes of action under Title VII, ADEA and any state or local law or regulation in respect of discrimination of any kind; provided, however, that nothing herein shall be deemed, nor does anything contained herein purport, to be a waiver of any right or claim or cause of action which by law Executive is not permitted to waive.

2. Voluntary Execution of Release.

BY HIS SIGNATURE BELOW, EXECUTIVE ACKNOWLEDGES THAT:

(a) HE HAS RECEIVED A COPY OF THIS RELEASE AND WAS OFFERED A PERIOD OF TWENTY-ONE (21) DAYS TO REVIEW AND CONSIDER IT;

(b) IF HE SIGNS THIS RELEASE PRIOR TO THE EXPIRATION OF TWENTY-ONE (21) CALENDAR DAYS, HE KNOWINGLY AND VOLUNTARILY WAIVES AND GIVES UP THIS RIGHT OF REVIEW;

(c) HE HAS THE RIGHT TO REVOKE THIS RELEASE FOR A PERIOD OF SEVEN (7) CALENDAR DAYS AFTER HE SIGNS IT BY MAILING OR DELIVERING A WRITTEN NOTICE OF REVOCATION TO THE COMPANY NO LATER THAN THE CLOSE OF BUSINESS ON THE SEVENTH CALENDAR DAY AFTER THE DAY ON WHICH HE SIGNED THIS RELEASE;

(d) THIS RELEASE SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THE FOREGOING SEVEN DAY REVOCATION PERIOD HAS EXPIRED WITHOUT THE RELEASE HAVING BEEN REVOKED;

(e) THIS RELEASE WILL BE FINAL AND BINDING AFTER THE EXPIRATION OF THE FOREGOING REVOCATION PERIOD REFERRED TO IN SECTION 2(c), AND FOLLOWING SUCH REVOCATION PERIOD EXECUTIVE AGREES NOT TO CHALLENGE ITS ENFORCEABILITY;

(f) HE IS AWARE OF HIS RIGHT TO CONSULT AN ATTORNEY, HAS BEEN ADVISED IN WRITING TO CONSULT WITH AN ATTORNEY, AND HAS HAD THE OPPORTUNITY TO CONSULT WITH AN ATTORNEY, IF DESIRED, PRIOR TO SIGNING THIS RELEASE;

(g) NO PROMISE OR INDUCEMENT FOR THIS RELEASE HAS BEEN MADE EXCEPT AS SET FORTH IN THE EMPLOYMENT AGREEMENT AND THIS RELEASE; AND

(h) HE HAS CAREFULLY READ THIS RELEASE, ACKNOWLEDGES THAT HE HAS NOT RELIED ON ANY REPRESENTATION OR STATEMENT, WRITTEN OR ORAL, NOT SET FORTH IN THIS DOCUMENT OR THE EMPLOYMENT AGREEMENT, AND WARRANTS AND REPRESENTS THAT HE IS SIGNING THIS RELEASE KNOWINGLY AND VOLUNTARILY.

3. Miscellaneous.

The provisions of the Employment Agreement relating to representations, successors, notices, amendments/waivers, headings, severability, choice of law, references, arbitration and counterparts/faxed signatures, shall apply to this Release as if set fully forth in full herein, with references in such Sections to “this Agreement” being deemed, as appropriate, to be references to this Release. For avoidance of doubt, this Section 3 has been included in this Release solely for

the purpose of avoiding the need to repeat herein the full text of the referenced provisions of the Employment Agreement.

IN WITNESS WHEREOF, Executive has acknowledged, executed and delivered this Release on the date indicated below.

/s/ Jonathan Hargis________________________
Jonathan Hargis

Date: November 2, 2016___________________

Exhibit 31.1

I, Thomas M. Rutledge, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Charter Communications, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant’s other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.

5. The registrant’s other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

Date: November 3, 2016

/s/ Thomas M. Rutledge

Thomas M. Rutledge
President and Chief Executive Officer

EXHIBIT A

Exhibit 31.2

I, Christopher L. Winfrey, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Charter Communications, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 3, 2016

/s/ Christopher L. Winfrey

Christopher L. Winfrey
Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER REGARDING PERIODIC REPORT CONTAINING FINANCIAL STATEMENTS

I, Thomas M. Rutledge, the President and Chief Executive Officer of Charter Communications, Inc. (the "Company") in compliance with 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, hereby certify that, the Company's Quarterly Report on Form 10-Q for the three and nine months ended September 30, 2016 (the "Report") filed with the Securities and Exchange Commission:

- fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934; and
- the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Thomas M. Rutledge
Thomas M. Rutledge
President and Chief Executive Officer
November 3, 2016

Exhibit 32.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER REGARDING PERIODIC REPORT CONTAINING FINANCIAL STATEMENTS

I, Christopher L. Winfrey, the Chief Financial Officer of Charter Communications, Inc. (the "Company"), in compliance with 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, hereby certify that, the Company's Quarterly Report on Form 10-Q for the three and nine months ended September 30, 2016 (the "Report") filed with the Securities and Exchange Commission:

- fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934; and
- the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Christopher L. Winfrey
Christopher L. Winfrey
Chief Financial Officer
(Principal Financial Officer)
November 3, 2016

EXHIBIT A

Exhibit 99.1

Reconciliation of Pro Forma Financial Information

The following pro forma financial information is based on (i) the unaudited consolidated financial statements of Charter Communications, Inc. ("Charter") and Time Warner Cable Inc. ("TWC") contained in their respective 2015 and 2016 Quarterly Reports on Form 10-Q as filed with the Securities and Exchange Commission ("SEC"); (ii) the audited consolidated financial statements of Charter and TWC contained in their respective 2015 Annual Reports on Form 10-K as filed with the SEC; (iii) the 2015 and first quarter of 2016 condensed consolidated unaudited quarterly financial statements of Bright House Networks, LLC ("Bright House") contained in Charter's Current Reports on Form 8-K filed with the SEC on November 5, 2015 and July 29, 2016, Charter's preliminary joint proxy statement/prospectus filed with the SEC on June 26, 2015 and Charter's definitive joint proxy statement/prospectus filed with the SEC on August 20, 2015; (iv) the 2015 consolidated audited financial statements of Bright House contained in Charter's Current Reports on Form 8-K filed with the SEC on April 7, 2016; and (v) the unaudited consolidated financial information of TWC and Bright House for the 47 day period from April 1, 2016 to May 17, 2016.

The results of operations data on a pro forma basis are provided for illustrative purposes only and are based on available information and assumptions that Charter believes are reasonable and do not purport to represent what the actual consolidated results of operations of Charter would have been had the Transactions occurred as of January 1, 2015, nor are they necessarily indicative of future consolidated results of operations or consolidated financial position.

EXHIBIT A

CHARTER COMMUNICATIONS, INC. AND SUBSIDIARIES
UNAUDITED PRO FORMA CONSOLIDATED STATEMENTS OF OPERATIONS
(DOLLARS IN MILLIONS, EXCEPT SHARE DATA)

	Three Months ended March 31, 2015						
	Charter Historical	TWC	Pro Forma Adjustments	Charter Pro Forma	Bright House	Pro Forma Adjustments	Charter Pro Forma
REVENUES	$ 2,362	$ 5,777	$ 46 [a]	$ 8,185	$ 978	$ (42) [a]	$ 9,121
COSTS AND EXPENSES:							
Operating costs and expenses (exclusive of items shown separately below)	1,581	3,781	73 [a]	5,435	668	(82) [a]	6,021
Depreciation and amortization	514	886	657 [b]	2,057	111	110 [b]	2,278
Other operating expenses, net	18	26	(25) [c]	19	—	(1) [c]	18
	2,113	4,693	705	7,511	779	27	8,317
Income from operations	249	1,084	(659)	674	199	(69)	804
OTHER INCOME (EXPENSES):							
Interest expense, net	(289)	(348)	(156) [d]	(793)	(7)	(1) [d]	(801)
Loss on financial instruments, net	(6)	—	—	(6)	—	—	(6)
Other income, net	—	10	—	10	1	—	11
	(295)	(338)	(156)	(789)	(6)	(1)	(796)
Income (loss) before taxes	(46)	746	(815)	(115)	193	(70)	8
Income tax benefit (expense)	(35)	(288)	368 [e]	45	—	(35) [e]	10
Consolidated net income (loss)	(81)	458	(447)	(70)	193	(105)	18
Less: Noncontrolling interest	—	—	—	—	—	(34) [f]	(34)
Net income (loss) before non-recurring charges directly attributable to the Transactions	$ (81)	$ 458	$ (447)	$ (70)	$ 193	$ (139)	$ (16)
EARNINGS (LOSS) PER COMMON SHARE:							
Basic and diluted	$ (0.73)						$ (0.06)
Weighted average common shares outstanding, basic and diluted	111,655,617						269,516,043 [g]

EXHIBIT A

	Three Months ended June 30, 2015						
	Charter Historical	TWC	Pro Forma Adjustments	Charter Pro Forma	Bright House	Pro Forma Adjustments	Charter Pro Forma
REVENUES	$ 2,430	$ 5,926	$ 45 [a]	$ 8,401	$ 989	$ (40) [a]	$ 9,350
COSTS AND EXPENSES:							
Operating costs and expenses (exclusive of items shown separately below)	1,601	3,896	79 [a]	5,576	665	(80) [a]	6,161
Depreciation and amortization	528	919	657 [b]	2,104	113	110 [b]	2,327
Other operating (income) expenses, net	32	82	(89) [c]	25	(22)	(2) [c]	1
	2,161	4,897	647	7,705	756	28	8,489
Income from operations	269	1,029	(602)	696	233	(68)	861
OTHER INCOME (EXPENSES):							
Interest expense, net	(229)	(350)	(156) [d]	(735)	(9)	(1) [d]	(745)
Loss on extinguishment of debt	(128)	—	—	(128)	—	—	(128)
Gain on financial instruments, net	1	—	—	1	—	—	1
Other income, net	—	127	—	127	—	—	127
	(356)	(223)	(156)	(735)	(9)	(1)	(745)
Income (loss) before taxes	(87)	806	(758)	(39)	224	(69)	116
Income tax expense	(35)	(343)	393 [e]	15	—	(43) [e]	(28)
Consolidated net income (loss)	(122)	463	(365)	(24)	224	(112)	88
Less: Noncontrolling interest	—	—	—	—	—	(45) [f]	(45)
Net income (loss) before non-recurring charges directly attributable to the Transactions	$ (122)	$ 463	$ (365)	$ (24)	$ 224	$ (157)	$ 43
EARNINGS (LOSS) PER COMMON SHARE:							
Basic	$ (1.09)						$ 0.16
Diluted	$ (1.09)						$ 0.16
Weighted average common shares outstanding, basic	111,783,504						269,643,930 [g]
Weighted average common shares outstanding, diluted	111,783,504						273,081,641 [g]

EXHIBIT A

	Three Months ended September 30, 2015						
	Charter Historical	TWC	Pro Forma Adjustments	Charter Pro Forma	Bright House	Pro Forma Adjustments	Charter Pro Forma
REVENUES	$ 2,450	$ 5,922	$ 48 [a]	$ 8,420	$ 964	$ (42) [a]	$ 9,342
COSTS AND EXPENSES:							
Operating costs and expenses (exclusive of items shown separately below)	1,620	3,942	83 [a]	5,645	666	(82) [a]	6,229
Depreciation and amortization	538	935	657 [b]	2,130	116	110 [b]	2,356
Other operating (income) expenses, net	19	44	(67) [c]	(4)	(2)	—	(6)
	2,177	4,921	673	7,771	780	28	8,579
Income from operations	273	1,001	(625)	649	184	(70)	763
OTHER INCOME (EXPENSES):							
Interest expense, net	(353)	(351)	(10) [d]	(714)	(9)	(1) [d]	(724)
Loss on financial instruments, net	(5)	—	—	(5)	—	—	(5)
Other income, net	(3)	10	—	7	—	—	7
	(361)	(341)	(10)	(712)	(9)	(1)	(722)
Income (loss) before taxes	(88)	660	(635)	(63)	175	(71)	41
Income tax benefit (expense)	142	(223)	106 [e]	25	—	(26) [e]	(1)
Consolidated net income	54	437	(529)	(38)	175	(97)	40
Less: Noncontrolling interest	—	—	—	—	—	(38) [f]	(38)
Net income before non-recurring charges directly attributable to the Transactions	$ 54	$ 437	$ (529)	$ (38)	$ 175	$ (135)	$ 2
EARNINGS PER COMMON SHARE:							
Basic	$ 0.48						$ 0.01
Diluted	$ 0.48						$ 0.01
Weighted average common shares outstanding, basic	111,928,113						269,788,539 [g]
Weighted average common shares outstanding, diluted	113,339,885						273,183,733 [g]

EXHIBIT A

	Three Months ended December 31, 2015						
	Charter Historical	TWC	Pro Forma Adjustments	Charter Pro Forma	Bright House	Pro Forma Adjustments	Charter Pro Forma
REVENUES	$ 2,512	$ 6,072	$ 44 [a]	$ 8,628	$ 992	$ (39) [a]	$ 9,581
COSTS AND EXPENSES:							
Operating costs and expenses (exclusive of items shown separately below)	1,624	3,940	78 [a]	5,642	656	(73) [a]	6,225
Depreciation and amortization	545	956	657 [b]	2,158	119	110 [b]	2,387
Other operating (income) expenses, net	20	51	(70) [c]	1	(1)	1 [c]	1
	2,189	4,947	665	7,801	774	38	8,613
Income from operations	323	1,125	(621)	827	218	(77)	968
OTHER INCOME (EXPENSES):							
Interest expense, net	(435)	(352)	98 [d]	(689)	(8)	(1) [d]	(698)
Gain on financial instruments, net	6	—	—	6	—	—	6
Other expense, net	(4)	3	—	(1)	—	—	(1)
	(433)	(349)	98	(684)	(8)	(1)	(693)
Income (loss) before taxes	(110)	776	(523)	143	210	(78)	275
Income tax expense	(12)	(290)	246 [e]	(56)	—	(27) [e]	(83)
Consolidated net income (loss)	(122)	486	(277)	87	210	(105)	192
Less: Noncontrolling interest	—	—	—	—	—	(62) [f]	(62)
Net income (loss) before non-recurring charges directly attributable to the Transactions	$ (122)	$ 486	$ (277)	$ 87	$ 210	$ (167)	$ 130
EARNINGS (LOSS) PER COMMON SHARE:							
Basic	$ (1.09)						$ 0.48
Diluted	$ (1.09)						$ 0.48
Weighted average common shares outstanding, basic	112,106,255						269,966,681 [g]
Weighted average common shares outstanding, diluted	112,106,255						273,363,706 [g]

EXHIBIT A

	Three Months ended March 31, 2016						
	Charter Historical	TWC	Pro Forma Adjustments	Charter Pro Forma	Bright House	Pro Forma Adjustments	Charter Pro Forma
REVENUES	$ 2,530	$ 6,191	$ 45 [a]	$ 8,766	$ 1,015	$ (39) [a]	$ 9,742
COSTS AND EXPENSES:							
Operating costs and expenses (exclusive of items shown separately below)	1,671	4,032	64 [a]	5,767	685	(77) [a]	6,375
Depreciation and amortization	539	974	556 [b]	2,069	112	104 [b]	2,285
Other operating (income) expenses, net	18	40	(46) [c]	12	(1)	2 [c]	13
	2,228	5,046	574	7,848	796	29	8,673
Income from operations	302	1,145	(529)	918	219	(68)	1,069
OTHER INCOME (EXPENSES):							
Interest expense, net	(454)	(350)	105 [d]	(699)	(5)	(4) [d]	(708)
Loss on financial instruments, net	(5)	—	—	(5)	—	—	(5)
Other income, net	(3)	11	—	8	—	—	8
	(462)	(339)	105	(696)	(5)	(4)	(705)
Income (loss) before taxes	(160)	806	(424)	222	214	(72)	364
Income tax expense	(28)	(312)	253 [e]	(87)	—	(28) [e]	(115)
Consolidated net income (loss)	(188)	494	(171)	135	214	(100)	249
Less: Noncontrolling interest	—	—	—	—	—	(70) [f]	(70)
Net income (loss) before non-recurring charges directly attributable to the Transactions	$ (188)	$ 494	$ (171)	$ 135	$ 214	$ (170)	$ 179
EARNINGS (LOSS) PER COMMON SHARE:							
Basic	$ (1.68)						$ 0.66
Diluted	$ (1.68)						$ 0.65
Weighted average common shares outstanding, basic	112,311,539						270,171,965 [g]
Weighted average common shares outstanding, diluted	112,311,539						273,445,951 [g]

EXHIBIT A

	Three Months ended June 30, 2016						
	Charter Historical [1]	TWC [2]	Pro Forma Adjustments	Charter Pro Forma	Bright House [2]	Pro Forma Adjustments	Charter Pro Forma
REVENUES	$ 6,161	$ 3,285	$ 20 [a]	$ 9,466	$ 531	$ (28) [a]	$ 9,969
COSTS AND EXPENSES:							
Operating costs and expenses (exclusive of items shown separately below)	4,004	2,169	35 [a]	6,208	344	(53) [a]	6,499
Depreciation and amortization	1,436	515	275 [b]	2,226	64	48 [b]	2,338
Other operating (income) expenses, net	31	20	(287) [c]	(236)	—	(1) [c]	(237)
	5,471	2,704	23	8,198	408	(6)	8,600
Income from operations	690	581	(3)	1,268	123	(22)	1,369
OTHER INCOME (EXPENSES):							
Interest expense, net	(593)	(182)	54 [d]	(721)	—	(2) [d]	(723)
Loss on extinguishment of debt	(110)	—	—	(110)	—	—	(110)
Loss on financial instruments, net	(50)	—	—	(50)	—	—	(50)
Other income, net	(2)	4	—	2	—	—	2
	(755)	(178)	54	(879)	—	(2)	(881)
Income (loss) before taxes	(65)	403	51	389	123	(24)	488
Income tax benefit (expense)	3,179	(160)	(3,154) [e]	(135)	—	(22) [e]	(157)
Consolidated net income	3,114	243	(3,103)	254	123	(46)	331
Less: Noncontrolling interest	(47)	—	—	(47)	—	(36) [f]	(83)
Net income before non-recurring charges directly attributable to the Transactions	$ 3,067	$ 243	$ (3,103)	$ 207	$ 123	$ (82)	$ 248
EARNINGS PER COMMON SHARE:							
Basic	$ 16.73						$ 0.92
Diluted	$ 15.17						$ 0.91
Weighted average common shares outstanding, basic and diluted	183,362,776						270,464,654 [g]
Weighted average common shares outstanding, diluted	205,214,266						273,802,246 [g]

1. Includes the results of operations of Charter for the three months ended June 30, 2016 and the results of operations of Legacy TWC and Legacy Bright House from the date of acquisition (May 18, 2016) through June 30, 2016.
2. Includes the results of operations of Legacy TWC and Legacy Bright House for the period from April 1, 2016 through May 17, 2016.

EXHIBIT A

Notes to the Pro Forma Statements of Operations Adjustments

Refer to Exhibit 99.1 included in Charter's Current Report on Form 8-K/A filed with the Securities and Exchange Commission on July 29, 2016 for more detailed information regarding these adjustments.

(a) Adjustments to revenues and operating costs and expenses reflect:
- a reclassification to conform to Charter's financial statement classification for processing fees revenue, among other revenue items; and
- eliminations of revenue/expense between Charter, TWC and Bright House including the TWC management fee incurred by Bright House.

Operating costs and expenses also include adjustments for:
- incremental replacement stock award compensation expense for TWC employees;
- elimination of amortization of actuarial gains (losses) and prior service credits for pension plans;
- a Bright House adjustment to capitalize residential installation labor and other labor costs to conform to Charter's capitalization accounting policy; and
- elimination of costs related to parent company obligations not assumed by Charter in the Bright House transactions; and
- other reclassifications to conform to Charter's financial statement classification.

(b) Adjustments to depreciation and amortization represent additional expense as a result of adjusting TWC and Bright House property, plant and equipment and customer relationships to fair value in accordance with acquisition accounting. The pro forma adjustments are based on current estimates and may not reflect actual depreciation and amortization once the purchase price allocation is finalized and final determination of useful lives is made.

(c) Adjustments to other operating (income) expenses, net reflect:
- elimination of TWC stock compensation expense classified by TWC as merger-related in other operating expense;
- elimination of Charter and TWC transaction costs directly related to the transactions; and
- other reclassifications to conform to Charter's financial statement classification.

(d) Adjustments to interest expense, net reflect:
- additional interest expense on new debt issued and related amortization of deferred financing fees;
- amortization of net premium as a result of adjusting assumed TWC long-term debt to fair value;
- elimination of amortization related to TWC's previously deferred financing fees and debt discounts;
- elimination of historical interest expense incurred by Bright House as debt is not assumed in the Bright House transactions.

(e) The income tax benefit impact of the pro forma adjustments was determined by applying an estimated Charter tax rate of 39% to the pro forma loss before taxes of Charter following the Transactions, and, with respect to the Bright House Transaction, less the impact on the tax rate as a result of the noncontrolling interest allocation of the Charter Holdings partnership. The three months ended June 30, 2016 also eliminates the reduction of the valuation allowance as the reduction was a direct result of the Transactions.

(f) Adjustment to noncontrolling interest represents A/N's relative economic common ownership interest in Charter Holdings and Charter Holdings 6% cash dividend to preferred unit holders.

(g) Basic weighted average common shares outstanding were adjusted for the shares issued to TWC shareholders (including the Liberty Parties), shares purchased by the Liberty parties and a reduction of Charter shares outstanding as a result of applying the Parent Merger Exchange Ratio. Diluted weighted average common shares outstanding is based on basic weighted average common shares outstanding adjusted for the dilutive effect of equity awards and Charter Holdings convertible preferred units and common units to the extent they were dilutive.

EXHIBIT B

List of Court and Administrative Matters Responsive to Section IV.B.

Exhibit B

Pursuant to Section IV.B.1 and IV.B.2, there have been no instances in the ten-year period immediately preceding the filing of the application that Applicant is currently aware of where a court entered any judgment, decree or order, or where an administrative entity made any finding or entered any order or decree which determined that the Applicant engaged in any of the listed activities, except as provided below:

Community Antenna Service, Inc. v. Charter Communications, VI, LLC, Cause Number 01-0646-CTV-C, West Virginia PSC. In a matter initially filed by Charter against Community Antenna Services ("CAS") on grounds that CAS was unlawfully blocking Charter's ability to offer service to residents of apartment buildings in violation of state law, CAS filed counterclaims, including claims that Charter's pricing plans were discriminatory and anticompetitive under state law. An ALJ issued a decision on August 19, 2002, finding that certain of Charter's pricing plans at issue were discriminatory in violation of state law. The full PSC on February 10, 2004, however, reversed the ALJ finding and held that Charter had not engaged in any unlawful pricing practices. CAS appealed the PSC Order to the West Virginia Supreme Court, which ultimately reversed the PSC Order on the central issue and remanded the matter for further proceedings. On remand from the Supreme Court, the PSC ruled in February 2007 that the case had become moot because: (a) the pricing plans challenged in the case had not been used since early 2003; and (b) Charter had sold all of its West Virginia cable systems to Cebridge/Suddenlink. Please see final orders associated with cases 01-0646-CTV-C and OO-C-505, attached as Exhibit C-1.

Community Antenna Service, Inc. v. Charter Communications, VI, LLC, Cause No. OO-C-505, Circuit Court, Wood County, W. Va. The decision of the West Virginia Supreme Court reversing the PSC (in the above referenced proceeding) also re-activated the state court litigation between the parties which had been stayed pending resolution of the PSC decision. CAS abandoned all of its prior claims against Charter except (a) a claim that Charter has violated state laws governing unduly discriminatory cable rates under the West Virginia Cable Television Systems Act, and (b) in doing so, Charter tortiously interfered with CAS customer relationships and expectation of future relationships. In February 2008, the jury awarded CAS, among other things, compensatory damages for "unduly discriminatory rates." Charter filed post-trial motions seeking judgment in its favor, for a new trial, and to amend or alter the judgment. On March 29, 2010, Charter petitioned the West Virginia Supreme Court of Appeals to accept the case for appeal. On June 23, 2011, the court ruled against Charter's appeal. The verdict was satisfied on July 15, 2011. Please see final orders associated with cases 01-0646-CTV-C and OO-C-505, attached as Exhibit C-1.

FCC Proceedings Relating to SDV Technology. In November 2007, the FCC issued a LOI regarding TWC's deployment of switched digital video ("SDV") technology. In January 2009, the FCC issued four forfeiture orders, two finding

TWC liable for failing to provide notice of its SDV deployment, and two finding TWC liable for violating: (1) the right of consumers to attach navigation devices pursuant to Section 76.1201 of the FCC's rules, and (2) TWC's obligation to transmit virtual channel tables to unidirectional digital cable products pursuant to Section 76.640(b)(1) of the FCC's rules. The FCC recently vacated most of the findings of liability against TWC, and the parties entered into a consent decree to settle the notice issues. Please see final orders, attached as Exhibit C-2.

Agreement with Office of the New York Attorney General. Following an investigation in which the Office of the New York Attorney General found that TWC had passed through to subscribers franchise fees in excess of the limits set in its cable franchises in several update New York communities, Time Warner Cable and the Office of the New York Attorney General entered into an agreement dated February 28, 2013. In the agreement, Time Warner Cable took the position that the franchise agreements and applicable law did not prevent its passing through franchise fees as it had done, but also agreed to make refund payments to current subscribers and to pass-through franchise fees to subscribers going forward in accordance with the franchise limitations as determined by the Office of the New York Attorney General. There was no finding or entry of any order or decree in this matter.

Pursuant to Section IV.B.6, there have been no instances in the ten-year period immediately preceding the filing of the application that Applicant is currently aware of where an application for a transfer of a cable television franchise to Applicant has been denied or withdrawn after receipt of a formal or informal notice of intent to deny and not superseded by subsequent action by the community, except as provided below:

Separation from Time Warner Inc. In 2008, Oceanic's then-corporate parent, TWC, sought regulatory approvals for its planned separation from Time Warner Inc. As part of that effort, TWC sent FCC Form 394s to approximately 754 local franchising authorities ("LFA") without prejudice to TWC's position that the transaction would not result in any change of control that required LFA approval. Three LFAs (all in North Carolina) denied consent: Chatham County, Town of Hillsborough and Town of Spring Hope. A fourth LFA in North Carolina, the Town of Dortches, also subsequently denied consent; however, the system in that area was subsequently sold by TWC. Following the denials, TWC continued to work with the North Carolina communities to discuss their concerns. The Town of Hillsborough and Chatham County subsequently rescinded their denials.

EXHIBIT C-1

Community Antenna Service, Inc. v. Charter Communications, VI, LLC Orders

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA, in the City of Charleston, on the 5th day of December 2013.

CASE NO. 01-0646-CTV-C (REOPENED)

COMMUNITY ANTENNA SERVICE, INC.,
Parkersburg, Wood County,

Complainant,

v.

CHARTER COMMUNICATIONS, VI, LLC,
Parkersburg, Wood County,

Defendant.

COMMISSION ORDER

The Commission dismisses this matter.

BACKGROUND

In orders issued on February 10 and March 23, 2004, the Commission denied a formal complaint filed by Community Antenna Service, Inc. (CAS) that alleged that pricing practices of Charter Communications VI, LLC were improper.

On June 30, 2006, the Supreme Court of Appeals of West Virginia found that certain pricing plans were improper and remanded the case to the Commission for further proceedings. Community Antenna Serv., Inc. v. Public Serv. Comm'n, 219 W. Va. 425, 633 S.E.2d 779 (W. Va. 2006).

On December 4, 2006, the Commission required Charter and its successor to provide verified statements addressing 1) when the prohibited pricing plans were last offered, 2) whether similar programs have been offered since 2003 and 3) whether similar plans will be offered. Although Charter had argued that there was no need to involve Cebridge Acquisition LLC, doing business as Suddenlink Communications,[1] the Commission concluded that it was reasonable to inquire whether Suddenlink, as Charter's

[1] Suddenlink acquired Charter's cable facilities in West Virginia on July 1, 2006.

successor, has pricing plans similar to those that the Supreme Court prohibited. Comm'n Order at 5 (Dec. 4, 2006).

After considering comments, the Commission dismissed the case on February 14, 2007, concluding that the matter was moot because there was no reasonable expectation that the disputed pricing plans would recur or that the effects would continue. The Commission also ordered Charter, Suddenlink or any successor not to offer such pricing plans. Comm'n Order at 13.

On February 26, 2007, CAS asked the Commission to reconsider, arguing that the Commission did not evaluate recent pricing information. CAS Motion for Reconsideration at 1-3.

On March 7, 2007, Charter filed a response, asserting that CAS did not establish any ground for reconsideration and the Commission prohibited the pricing practices that the Supreme Court found to be improper. Charter Response in Opposition at 1-7.

On March 12, 2007, CAS filed a reply, arguing that price discrimination between subscribers of the same services should be addressed. CAS Reply at 1-3.

On June 1, 2007, the Commission referred this matter to the Division of Administrative Law Judges to consider whether the recent pricing plans challenged by CAS comply with the Supreme Court directive. Comm'n Order at 3.

On August 30, 2007, the ALJ conducted a hearing. The only witness was Stanley Howell, who worked as Charter's director of marketing and was vice president of marketing for Suddenlink's Atlantic Division at the time of the hearing. Tr. at 14-104 (Aug. 30, 2007). Mr. Howell provided considerable detail about the recent marketing plans offered by Charter and Suddenlink. He testified that there were no differences in technology or programming costs to provide service to customers who received the promotional pricing plans as compared to customers who subscribed to the same services at full price:

> Q. (by R. Full, Esq.) Are you aware of any difference in cost in providing the services in the competitive win-back packages to those who take those services, as opposed to other customers who take those services, but not as part of the competitive win-back packages?
>
> A. (by S. Howell) I believe the costs are what they are. Programming costs would be the same for anybody taking any of the offers. I don't think they would change.
>
> Q. And I take it there are no technological differences either between those two groups?

A. Not that I'm aware of.

Tr. at 86-87; see also Charter & Suddenlink proposed Order at 12 (July 9, 2008).

Recommended Decision

On November 16, 2007, the ALJ issued a Recommended Decision in which he considered whether the recent pricing plans 1) are permissible promotional or introductory offers or 2) are directed to a rational category of customers. Rec. Dec. at 1-11.

To be permissible promotional or introductory offers, reduced rates for new subscribers must be both universally applied and limited in time. The ALJ held that binding legal authority was not provided for the arguments by Commission Staff and CAS that twelve months was too long for promotional offers. Rec. Dec. at 6 n. 5. The ALJ concluded that Suddenlink's discount rates were not indefinitely applied. Id. at 6-7.

The ALJ found, though, that the promotional plans were offered in a discriminatory manner because they were not available to all new customers. Rec. Dec. at 7. Suddenlink's pricing plans were only offered to persons who subscribed to a competitor's multi-channel video programming services. The ALJ concluded that Suddenlink must offer its promotional rates in a universal manner, i.e., to any new customer, even one who had not previously subscribed to multi-channel video programming service. Id. at 7. Because the ALJ found that the Suddenlink pricing plans were not uniformly available to new customers, he concluded that they did not constitute permissible promotional offerings. Id.

Next the ALJ considered whether the pricing plans would be permissible because there was a rational basis for the category of customers to whom the discount rates were offered. Because Suddenlink primarily offered its promotional plans by door-to-door salesmen who visited the homes of all potential customers, the ALJ concluded that Suddenlink's promotional practices were not concentrated upon customers who had previously purchased multi-channel video programming service. The ALJ was not persuaded, therefore, that there was a rational basis for the category of customers to whom the discount rates were offered. Id. at 7-8.

Exceptions

On December 21, 2007, CAS filed Exceptions to the Recommended Decision, arguing that the promotional offers should be available to current Suddenlink customers and that twelve months was too long to be a promotional or introductory period. CAS Exceptions at 2-3. CAS also excepted to the ALJ's omission of all of the findings, conclusions and remedies that CAS had proposed, including that Suddenlink be prohibited from providing cable services to its subscribers who had received the challenged pricing plans. Id. at 3-5.

On December 21, 2007, Suddenlink also filed Exceptions, arguing that its pricing plans were valid promotional offers because they were offered to all customers of Suddenlink competitors, limited in duration and not offered to existing Suddenlink customers. Suddenlink Exceptions at 1. Suddenlink argued that subscribers of competing multi-channel video programming services comprise a rational category of customers to whom promotional plans may be offered because no-service households reflect different motivations and different marketing is required. Id. at 2, 12-13. CAS, DIRECTV and DISH Network, L.L.C. have made similar promotional offers, and Suddenlink's plans are a rational, market-based reaction to those competitive offers. Id. at 16.

On January 2, 2008, CAS responded to the Suddenlink Exceptions, continuing to argue that the pricing plans must be made available to all who do not subscribe to them, including current Suddenlink customers. CAS Response at 3.

On January 2, 2008, Charter responded to the CAS Exceptions, asserting that nothing in Commission rules, law or the Supreme Court decision would support ordering the termination of customers who have received the promotional offers, even if the Commission decides the pricing plans should be discontinued. Charter Response at 2-3. Charter argued that it is irrational to offer existing customers the discount packages that are designed to introduce Charter services to new customers. Id. at 3.

Charter asserted that failing to consider all economic competitors, including satellite providers and their offers, would be plain error. Id. Charter argued that the most obvious way to create rational offers for new customers is to consider their existing services and to design plans that might motivate them to switch service providers. Id. at 5.

Charter argued that the Commission should ignore the CAS request to adopt unspecified findings or conclusions because Commission rules require that exceptions be specific. Charter Response at 9.

Oral argument and proposed orders

On June 11, 2008, the Commission received oral argument.[2] Thereafter, proposed Orders and responses were filed.

CAS asked the Commission to clarify to whom special pricing must be made available. CAS asserted that the discount plans must be offered to new customers who previously did not purchase multi-channel video programming service, as well as to existing customers who purchase other levels of service than are offered in the special pricing plans. CAS Proposed Order at 1-20 (July 9, 2008).

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[2] With the agreement of the parties, the hearing was conducted without a court reporter.

CAS continued to argue that twelve months was too long a time to constitute a promotional pricing period. Id. at 12-13.

CAS also asserted that Suddenlink must show the economic benefit it derives in offering its special pricing plans to some customers and that simply seeking to obtain customers from a competitor was not a sufficient economic benefit. CAS Proposed Order at 14-15.

In its proposed Order, Charter identified three classes of customers: 1) existing and former subscribers, 2) households served by competing providers of multi-channel video programming services, and 3) no-service households. Charter asserted that universally applied plans should be made available to a defined category of similarly situated potential customers across its entire service area, and potential customers who already receive multi-channel pay television service are motivated differently than potential customers who have shunned receiving such service. Charter Proposed Order at 1-14 (July 9, 2008).

Charter distinguished the time periods for promotional offers that were cited by CAS. Charter Proposed Order at 7.

Charter argued that if the Commission concludes that the Charter and Suddenlink pricing plans are permissible promotional offerings, the Commission need not consider whether a rational basis exists for the category of customers to whom the promotion plans are offered. Id. Charter asserted that the test for whether categories are reasonable is analogous to the rational basis test of the equal protection clause of the United States and West Virginia Constitutions, and rational basis denotes a minimal level of scrutiny. Id. at 8-9, citing CAS v. PSC, 633 S.E.2d at 793 (2006).

Staff responded to the proposed Orders, advising that the Recommended Decision should be adopted. Staff Response to Proposed Orders at 1-2 (July 18, 2008).

CAS responded to the proposed Charter Order, asserting that current Suddenlink customers who wish to subscribe to the Value Link and Premier Link packages must be offered the promotional rates that are available to new Suddenlink subscribers. Current subscribers who buy those packages at the regular price do not have to be offered the introductory rate because current subscribers are not new customers for those packages. CAS Response to Charter Proposed Order at 1-10 (July 18, 2008).

Although CAS had requested the termination of service to Suddenlink customers who purchased cable services under the pricing plans, CAS revised its position to only ask that the pricing discrimination cease. Id. at 9-10, citing CAS Proposed Order at 19.

Charter responded to the CAS proposed Order, stating that even though CAS prevailed on the merits, CAS rewrote the Recommended Decision. Charter Response at

1-14 (July 18, 2008). As an example, Charter noted that four pages of the CAS proposed Order recount the oral argument before the Commission, which is not evidence in this matter. Id. at 3-4.

Charter stated that its promotional rates are offered with a variety of service tiers. Id. at 8. All of the pricing plans require a customer to purchase at least basic and extended basic cable service as well as one digital tier. Id. at 5-6.

To comply with the 2006 directive of the West Virginia Supreme Court, the reduced rates must be universally applied and later discontinued. Id. at 8. Charter asserted that introductory promotions are typically understood as a discount offered for trying a new provider or a new service, and Charter offers its promotional plans to entice customers to try Charter as a new service provider. Offering the promotional pricing plans to existing customers is inconsistent with the aim to gain new customers. Under the CAS approach, a customer who received an introductory price for the Value Link tier would be eligible for an introductory price for the Premier Link or other service tiers. Id. at 8-9.

Charter argued that it had demonstrated a rational basis to target its competitors' customers because Charter sought to provide service to households that have previously subscribed to multi-channel video programming services. Id. at 12. These potential customers are differently motivated than potential customers who have not subscribed to multi-channel video service, and the costs to market to each group differ. Id. No-service households are more likely to be persuaded to begin cable service based on programming and services offered; while a customer who already has purchased multi-channel video programming service needs some other incentive to switch to a new provider. There is economic benefit to Suddenlink in offering the promotional pricing plans to those who will be motivated by them. Id.

Other proceedings

On May 14, 2009, the Commission was notified of the Chapter 11 filing by Charter in the United States Bankruptcy Court for the Southern District of New York, which operated, pursuant to 11 U.S.C. § 362(a), as a stay of all judicial, administrative or other actions or proceedings involving Charter, including this Public Service Commission proceeding. Charter emerged from the bankruptcy on November 30, 2009.

In a civil proceeding in the Circuit Court of Wood County, CAS sued Charter for damages relating to the pricing plans that CAS initially challenged in the Commission proceedings. Charter Comm., VI, LLC v. Community Antenna Serv., Civil Ac. No. 00-C-505 (Wood Co. Cir. Ct.)

In February 2008, a Wood County jury concluded that the Charter plans constituted unduly discriminatory rates in violation of state law and that Charter had tortiously interfered with CAS's business relationship with its customers. The jury

awarded CAS $1,150,954 for discrimination, $1,446,350 for tortious interference and $1,500,000 for punitive damages.[3] On January 5, 2010, the Wood County Circuit Court denied various post-trial motions.

On June 23, 2011, the West Virginia Supreme Court issued a decision on Charter's appeal of the Wood County judgment and affirmed the trial court. Community Antenna Serv., Inc. v. Charter Comm. VI, LLC, 227 W. Va. 595, 712 S.E.2d 504 (W. Va. 2011). The 2011 Supreme Court decision concerned only the discounted prices that were initially challenged in Commission proceedings. None of those plans continued beyond early 2003.[4]

In the 2011 decision, the Supreme Court wrote that it had previously concluded that the Charter pricing plans were not promotional, but constituted rate discrimination. CAS v. Charter Comm., 712 S.E.2d at 514, citing CAS v. PSC, 633 S.E.2d at 794. To measure whether a pricing plan was not unduly discriminatory, the Supreme Court held in 2006 that there must be a rational basis to classify or categorize certain customers from other customers. Id., citing CAS v. PSC (syl. pt. 4). Although the Supreme Court indicated in 2006 that constitutional cases relating to equal protection were instructive and analogous, in 2011 the Supreme Court held that the minimal level of scrutiny and high level of deference that is applied when considering whether there is a rational basis for action by a governmental entity does not apply when considering whether action by a non-governmental actor, such as Charter, has a rational basis. CAS v. Charter Comm., 712 S.E.2d at 515. For a non-governmental entity, the West Virginia Supreme Court held that special pricing, to have a rational basis under the Cable Television Systems Act, "must be based upon justifiable differences in the economic benefits the cable operator derives from servicing categories of customers to whom special pricing is offered." Id.

Subsequent pleadings before the Commission

On October 9, 2012, the Commission acknowledged the 2011 Supreme Court decision and advised that further proceedings seemed to be unnecessary. Ten days were provided for the parties to object to dismissal of the Commission proceeding. Comm'n Order at 1.

On October 19, 2012, CAS filed an objection and asked the Commission to take additional evidence. CAS Objection at 1-16 & attachments.

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[3] All of the damages, plus interest of $1.1 million, have been paid. Final Agreed Order Discharging Supersedeas and Appeal Bond, Charter Comm. v. CAS, Civil Ac. No. 00-C-505 (Wood Co. Cir. Ct.) (Aug. 1, 2011).

[4] To differentiate them from the more recent plans under review at the Commission, these offers were referred to as the "pre-2003 pricing plans" in the Wood County proceeding. Order at 7-8, Charter Comm. v. CAS, Civil Ac. No. 00-C-505 (Wood Co. Cir. Ct.) (Nov. 21, 2007).

CAS asserted that the Wood County trial and the 2011 Supreme Court Order resolved CAS claims arising from the pricing plans that were the subject of the initial Commission proceedings. Pricing plans offered after 2002, however, have not been vetted in Commission proceedings and were not considered in the Wood Court trial or by the West Virginia Supreme Court. Upon remand, the Commission has under consideration whether the more recent pricing plans comply with the 2006 Supreme Court Order. CAS Objection at 2-3.

In 2006, the Commission required Charter and its successor to provide verified statements about their pricing plans. Id. at 4, citing Comm'n Order at 5 (Dec. 4, 2006). CAS noted that on February 14, 2007, the Commission initially accepted the assertions that Suddenlink does not offer similar pricing plans. The Commission concluded that the controversy was moot, dismissed the case and ordered that "Charter and/or Suddenlink, and any successor, shall not offer the pricing plans which are at issue in this proceeding." Id. at 4-5, citing Comm'n Order at 8-9 (Feb. 14, 2007).

In the petition to reconsider, CAS argued that the pricing plans now offered, while tweaked in certain particulars, retain many of the characteristics of the plans that were found to be unduly discriminatory. Evidence was provided about pricing plans that were offered post-2002 through the date of the 2007 ALJ hearing. Id. at 5, citing Comm'n Order at 4 (June 1, 2007).

The issues to be addressed by the Commission are whether the post-2002 pricing plans are both limited in time and universally applied to constitute true promotional offers, and if not, does a rational basis exist to justify the charging of disparate rates to different categories of subscribers based on justifiable differences in economic benefits derived from serving such categories of customers. Id. at 7. CAS also argues that evidence of promotional packages offered by direct broadcast satellite competitors is not relevant. Id. at 11, 13.

CAS asserted that universal application requires that pricing be offered to all potential customers in each franchise area, not that the pricing be offered in all of the Suddenlink franchise areas. Id. at 12. CAS also argued that pricing packages offered for twelve months are not sufficiently limited in time to be promotional. Id. at 13. CAS asserted that no rational basis has been shown for the rate discrimination contained in the Suddenlink plans. Id. at 13-14.

CAS asked that the parties be allowed to address the impact of the 2011 Supreme Court decision, as applied to record developed at the Commission since 2006, as well as other developments in the law, if any. Additionally, CAS asked the Commission to review Suddenlink pricing plans from August 30, 2007, to the present. Id. at 14-16.

On October 29, 2012, Charter and Suddenlink filed their opposition to further proceedings, arguing that this case is moot and any Commission order would not afford a meaningful remedy. Charter & Suddenlink Opposition at 1-12. They wrote that CAS

obtained a multimillion dollar verdict that has been paid in full, based on 2000-02 pricing practices, and subsequent promotional offers bore no resemblance to the 2000-02 practices. Id. at 1.

Charter and Suddenlink asserted that the Commission has broad discretion to find this matter moot if 1) there is no reasonable expectation that the alleged violation will recur and 2) events have irrevocably eradicated the effects of the alleged violation. When both conditions are satisfied, it may be said that the case is moot because neither party has a legally cognizable interest in the final determination of the underlying questions of fact and law. The central consideration regarding mootness is sometimes stated as whether changes in the circumstances that prevailed at the beginning of litigation have forestalled any occasion for meaningful relief. Id. at 2-6. They argued that administrative agencies have considerable discretion to decide mootness. Id. at 2-3.

Effective July 1, 2006, Charter no longer operated in West Virginia, and Charter and Suddenlink are not affiliated in any way. Because Charter has no further operations in the state, it has neither customers nor pricing practices. Any pricing practice relating to Charter is moot because there is no realistic possibility that Charter will repeat the behaviors that were prohibited by the West Virginia Supreme Court. Id. at 3-5.

The record developed before the ALJ in 2007 also examined Suddenlink's promotional offers, which were materially different from the plans initially challenged by CAS. The more recent plans were 1) universally applied throughout Suddenlink's multistate service area to customers of any competitor, 2) always offered at a price that exceeded charges for basic service and 3) never remained in place longer than twelve months, with only one promotion per customer. Id. at 5-6.

Charter and Suddenlink asserted that no further remedy is necessary or appropriate. beyond the Commission's order prohibiting any pricing practices similar to those underlying CAS' initial complaint. The multi-million dollar award against Charter serves as a deterrent against similar future conduct. Id. at 8.

DISCUSSION

Following the 2006 decision by the West Virginia Supreme Court, and after considering comments from the parties, the Commission dismissed Case Number 01-0646-CTV-C, concluding that there was no reasonable expectation that the disputed pricing plans would recur or that the effects would continue. The Commission also ordered Charter, Suddenlink or any successor not to offer such pricing plans.

On reconsideration, the Commission granted a request by CAS to review then-current pricing plans and remanded this case for further proceedings. The ALJ took evidence and issued a Recommended Decision in which he concluded that the then-current pricing plans do not comply with the 2006 requirements of the West Virginia

Supreme Court. Exceptions were filed by both sides. Additionally, the Commission has received oral argument and proposed orders.

After considerable deliberation, the Commission concludes that this matter should be dismissed. The initial concerns raised by CAS were completely addressed. The Commission allowed this matter to remain open only to consider whether the then-current promotional plans were in compliance with the 2006 Supreme Court Order.

Since that time, though, the Wood County litigation between CAS and Charter has concluded, ultimately resulting in a 2011 Supreme Court decision that provided a new test under the Cable Television Systems Act to evaluate whether there is a rational basis for the more recent pricing plans. That Supreme Court test was not known when the parties and the ALJ were processing this matter at the Commission. Thus, the arguments pending before us were not prepared in consideration of that new test.

We recognize that considerable resources have been expended in the preparation of the exceptions, oral argument and proposed Orders and that CAS has requested that the Commission proceeding continue. Against these considerations, though, we also weigh other concerns, including that Charter has not conducted operations in West Virginia since July 1, 2006 and that the record relating to promotional plans offered from 2003 to 2007 has become stale as a result of the new legal test announced in 2011.

Under these particular circumstances, we conclude that it is not in the public interest for the Commission or the parties to expend further resources in this proceeding to review pricing plans that existed from 2003 to 2007. The Commission orders Charter, Suddenlink or any successor not to offer any promotional pricing plans that are contrary to law. For pricing plans that are not promotional or introductory offers, any special pricing plans offered by a cable television service provider must be based upon justifiable differences in the economic benefits the cable operator derives from servicing categories of customers to whom special pricing is offered.

Our decision to dismiss this case does not preclude the filing of a new action for review of current promotional plans under the 2011 test.

FINDINGS OF FACT

1. Suddenlink acquired Charter's cable facilities in West Virginia on July 1, 2006. Stan Howell Declaration at 1 (filed Aug. 30, 2006).

2. After considering comments, the Commission dismissed this case on February 14, 2007, concluding that the matter was moot because there was no reasonable expectation that the disputed pricing plans would recur or that the effects would continue. Comm'n Order at 13.

3. In a civil proceeding in the Circuit Court of Wood County, CAS sued Charter for damages relating to the pricing plans that CAS initially challenged in the Commission proceedings. Charter Comm., VI, LLC v. Community Antenna Serv., Civil Ac. No. 00-C-505 (Wood Co. Cir. Ct.)

4. On June 1, 2007, the Commission reopened Case Number 01-0646-CTV-C to consider whether the then-recent pricing plans challenged by CAS comply with the 2006 Supreme Court directive. Comm'n Order at 3.

5. In February 2008, a Wood County jury concluded that the Charter promotional plans constituted unduly discriminatory rates in violation of state law and that Charter had tortiously interfered with CAS's business relationship with its customers. The jury awarded CAS $1,150,954 for discrimination, $1,446,350 for tortious interference and $1,500,000 for punitive damages. Final Agreed Order Discharging Supersedeas and Appeal Bond, Charter Comm. v. CAS, Civil Ac. No. 00-C-505 (Wood Co. Cir. Ct.) (Aug. 1, 2011).

6. On June 23, 2011, the West Virginia Supreme Court issued a decision on Charter's appeal of the Wood County judgment and affirmed the trial court. Community Antenna Serv., Inc. v. Charter Comm. VI, LLC, 227 W. Va. 595, 712 S.E.2d 504 (W. Va. 2011).

7. For a non-governmental entity, the West Virginia Supreme Court held that special pricing, to have a rational basis under the Cable Television Systems Act, "must be based upon justifiable differences in the economic benefits the cable operator derives from servicing categories of customers to whom special pricing is offered." CAS v. Charter Comm., 712 S.E.2d at 515.

8. The 2011 Supreme Court test for special pricing was not known when the parties and the ALJ were processing this matter at the Commission.

9. The arguments pending before us were not prepared in consideration of the test set forth in 2011 by the West Virginia Supreme Court.

CONCLUSIONS OF LAW

1. The record relating to promotional plans offered from 2003 to 2007 has become stale as a result of the new legal test announced in 2011.

2. Under these particular circumstances, it is not in the public interest for the Commission or the parties to expend further resources in this proceeding to review pricing plans that existed from 2003 to 2007.

EXHIBIT C-1

ORDER

IT IS THEREFORE ORDERED that this matter is dismissed and upon entry of this Order this case shall be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order by electronic service on all parties of record who have filed an e-service agreement, and by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Commission Staff by hand delivery.

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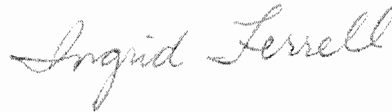

Ingrid Ferrell
Executive Secretary

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IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

January 2011 Term

FILED
June 23, 2011
released at 3:00 p.m.
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

No. 35703

COMMUNITY ANTENNA SERVICE, INC.
Plaintiff Below, Appellee

v.

CHARTER COMMUNICATIONS VI, LLC
Defendant Below, Appellant

Appeal from the Circuit Court of Wood County
Honorable J.D. Beane, Judge
Civil Action No. 00-C-505

AFFIRMED

Submitted: April 27, 2011
Filed: June 23, 2011

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JUSTICE KETCHUM delivered the Opinion of the Court.

JUSTICE McHUGH, deeming himself disqualified, did not participate.
JUDGE GAUJOT, sitting by temporary assignment.

SYLLABUS BY THE COURT

1. "In determining whether there is sufficient evidence to support a jury verdict the court should: (1) consider the evidence most favorable to the prevailing party; (2) assume that all conflicts in the evidence were resolved by the jury in favor of the prevailing party; (3) assume as proved all facts which the prevailing party's evidence tends to prove; and (4) give to the prevailing party the benefit of all favorable inferences which reasonably may be drawn from the facts proved." Syllabus Point 5, *Orr v. Crowder*, 173 W.Va. 335, 315 S.E.2d 593 (1983).

2. "The primary object in construing a statute is to ascertain and give effect to the intent of the Legislature." Syllabus Point 1, *Smith v. State Workmen's Comp. Comm'r*, 159 W.Va. 108, 219 S.E.2d 361 (1975).

3. "A statutory provision which is clear and unambiguous and plainly expresses the legislative intent will not be interpreted by the courts but will be given full force and effect." Syllabus Point 2, *State v. Epperly*, 135 W.Va. 877, 65 S.E.2d 488 (1951).

4. "Statutes which relate to the same subject matter should be read and applied together so that the Legislature's intention can be gathered from the whole of the enactments." Syllabus Point 3, *Smith v. State Workmen's Comp. Comm'r*, 159 W.Va. 108, 219 S.E.2d 361 (1975).

5. "A statute should be so read and applied as to make it accord with the spirit, purposes and objects of the general system of law of which it is intended to form a part; it being presumed that the legislators who drafted and passed it were familiar with all

existing law, applicable to the subject matter, whether constitutional, statutory or common, and intended the statute to harmonize completely with the same and aid in the effectuation of the general purpose and design thereof, if its terms are consistent therewith." Syllabus Point 5, *State v. Snyder*, 64 W.Va. 659, 63 S.E. 385 (1908).

6. "Statutes which relate to the same persons or things, or to the same class of persons or things, or statutes which have a common purpose will be regarded in *pari materia* to assure recognition and implementation of the legislative intent. Accordingly, a court should not limit its consideration to any single part, provision, section, sentence, phrase or word, but rather review the act or statute in its entirety to ascertain legislative intent properly." Syllabus Point 5, *Fruehauf Corp. v. Huntington Moving & Storage Co.*, 159 W.Va. 14, 217 S.E.2d 907 (1975).

7. Under the Cable Television Systems Act, *W.Va. Code*, 24D-1-22(c) and -23(e) [1999], any person, firm or corporation damaged by a violation of the Act by any cable operator may bring suit for the recovery of the damages for which such cable operator may be liable.

8. "A *prima facie* case is not overcome by evidence which merely affords a bare conjecture to the contrary." Syllabus, *Scioto Livestock Sales Co. v. Crockett*, 116 W.Va. 27, 178 S.E. 427 (1935).

9. A plaintiff relying on circumstantial evidence to establish the cause of a harm is not required to eliminate all other possible causes of the harm. A plaintiff is only required to submit evidence from which the jury can conclude, by a preponderance of the

evidence, that the defendant's conduct caused the harm. The fact that there may be other causes of the harm does not preclude liability.

10. "Because the verdict below is entitled to considerable deference, an appellate court should decline to disturb a trial court's award of damages on appeal as long as that award is supported by some competent, credible evidence going to all essential elements of the award." Syllabus Point 4, in part, *Reed v. Wimmer*, 195 W.Va. 199, 465 S.E.2d 199 (1995).

11. "Our punitive damage jurisprudence includes a two-step paradigm: first, a determination of whether the conduct of an actor toward another person entitles that person to *a* punitive damage award under *Mayer v. Frobe*, 40 W.Va. 246, 22 S.E. 58 (1895); second, if a punitive damage award is justified, then a review is mandated to determine if *the* punitive damage award is excessive under *Garnes v. Fleming Landfill, Inc.*, 186 W.Va. 656, 413 S.E.2d 897 (1991)." Syllabus Point 7, *Alkire v. First Nat. Bank of Parsons*, 197 W.Va. 122, 475 S.E.2d 122 (1996).

12. "Upon petition, this Court will review all punitive damages awards. In our review of the petition, we will consider the same factors that we require the jury and trial judge to consider, and all petitions must address each and every factor set forth in Syllabus Points 3 and 4 of this case with particularity, summarizing the evidence presented to the jury on the subject or to the trial court at the post-judgment review stage. Assignments of error related to a factor not specifically addressed in the petition will be deemed waived as a matter

of state law." Syllabus Point 5, *Garnes v. Fleming Landfill, Inc.*, 186 W.Va. 656, 413 S.E.2d 897 (1991).

Ketchum, Justice:

This case has a simple central issue: did one television cable company offer discounted rates to some (but not all) of its customers in violation of a state law that prohibits "unduly discriminatory rates"?

The parties — two cable companies — have litigated this issue for over a decade. After a trial, a jury concluded that one cable company's reduced rates for only a few of its customers violated state law, and were designed to unfairly drive the smaller and economically weaker cable company out of business. The jury awarded the smaller cable company compensatory and punitive damages.

In this appeal from the Circuit Court of Wood County — the third time these parties have appeared before this Court — we find there is a private cause of action under the West Virginia Cable Television Systems Act against cable operators that illegally offer "unduly discriminatory" cable rates. We further find that the jury's award of compensatory and punitive damages was supported by the evidence.

I.
Facts and Background

Appellant Charter Communications VI, PLLC ("Charter"), acquired an existing television cable company in 1999, and began providing cable services to citizens in the more "urban" incorporated areas of Wood County, largely centered in Parkersburg, West Virginia. Appellee Community Antenna Service, Inc. ("Community Antenna"), is a much smaller

company that provided cable services in rural, unincorporated areas of Wood County. In 1999, Community Antenna received a franchise agreement with the City of Parkersburg, and began extending its service into areas already served by the Charter system.

This appeal has its genesis in a lawsuit filed in the circuit court in October 2000. Appellant Charter brought a lawsuit alleging that Community Antenna had unlawfully entered into agreements with certain apartment building owners, whereby Community Antenna would be the exclusive cable provider for tenants in those buildings. Upon a certified question from the circuit court, we concluded that state law does not allow the kinds of exclusive contracts that Community Antenna made with apartment owners.[1]

At issue in this appeal is a counterclaim filed by Community Antenna in the underlying lawsuit. Community Antenna alleged that Charter was using an unlawful pricing scheme called "CAS buy-back plans" to unfairly drive Community Antenna out of business. A buy-back pricing plan was only offered by Charter to (1) Community Antenna customers, and (2) Charter customers who indicated an intent to leave Charter to subscribe to Community Antenna. The buy-back pricing plan was only offered in service areas where Charter and Community Antenna competed. No other Charter customer was eligible.

Under the buy-back pricing plans, Charter essentially offered some of its customers rates that would "meet or beat" Community Antenna's rates, and which were lower than Charter's rates for its customers who were not offered the buy-back pricing. If a Charter customer qualified for and received services under the plan – and about 800 did –

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[1]*See Charter Communications VI, PLLC v. Community Antenna Service, Inc.*, 211 W.Va. 71, 561 S.E.2d 793 (2002).

the customer got some variation of cash rebates, credits, and/or reduced rates while simultaneously receiving added cable services. Charter customers usually received the benefit of the plan for a twelve-month period; however, some were allowed to extend their service under the plan, at reduced rates, indefinitely. The large number of Charter customers who were not in the service areas where Charter competed with Community Antenna were not offered the buy-back pricing plan.

During the pendency of the circuit court action, Community Antenna filed a complaint with the Public Service Commission. Community Antenna asked the Commission to find that Charter's buy-back pricing plans were "unduly discriminatory" in violation of the Cable Television Systems Act, *W.Va. Code*, 24D-1-13(b) [1999]. In 2002, an administrative law judge determined that Charter's buy-back plans "unduly discriminate in favor of certain customers [since] [o]nly customers who have [Community Antenna] service available and either leave Charter or threaten to leave Charter for [Community Antenna] are offered the plans." However, the Public Service Commission rejected the administrative law judge's recommended decision, and in 2004 decided that the buy-back pricing plans were "reasonable and not discriminatory."

Community Antenna appealed the Commission's decision to this Court. In 2006, in a careful and extended discussion by Justice Benjamin of federal and state laws pertaining to the regulation of the cable television industry, we concluded that the Public Service Commission had erred.[2] We determined that Charter had a statutory responsibility

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[2]*See Community Antenna Service, Inc. v. Public Service Com'n of West Virginia*, 219 (continued...)

to offer a uniform rate structure to its customers in the Wood County geographic area. By offering special pricing plans to only a few of its customers, Charter could be considered to have offered "unduly discriminatory" rates. The case was remanded to the Commission for further proceedings.

While the Public Service Commission's decision was under review by this Court, Charter sold its West Virginia cable systems to another provider. On remand, the Commission found that the case was moot because Charter no longer provided cable service in West Virginia, and because neither Charter nor its successor offered a pricing plan similar to those at issue after 2002. The Commission did, however, order that Charter and its successors "not offer the pricing plans which are at issue in this proceeding."

After this Court's decision in 2006, the parties began vigorously litigating Community Antenna's counterclaim against Charter which, again, alleged that Charter had, in violation of state and federal law, engaged in rate discrimination which was calculated to harm Community Antenna's business. After nine days of trial, on February 28, 2008, a jury concluded that Charter's buy-back plans constituted "unduly discriminatory rates" in violation of state law, and concluded that Charter had tortiously interfered with Community Antenna's business relationships with its customers. The jury awarded Community Antenna damages of $1,150,954 for discrimination; $1,446,350 for tortious interference; and $1,500,000 in punitive damages.

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[2](...continued)
W.Va. 425, 633 S.E.2d 779 (2006).

Charter filed various post-trial motions challenging the jury's verdict. In an order dated January 5, 2010, the circuit court denied Charter's motions and upheld the jury's verdict.

Charter now appeals the circuit court's January 5, 2010 order.

II.
Standard of Review

Charter challenges the circuit court's interpretation of the Cable Television Systems Act. "Interpreting a statute or an administrative rule or regulation presents a purely legal question subject to *de novo* review."[3]

Charter also challenges the jury's award of punitive damages, and again, our review is *de novo*.[4] The standard of review of an order denying a motion for judgment as a matter of law after trial, pursuant to Rule 50(b), is also *de novo*.[5]

To the extent that Charter challenges the jury's factual findings, we accord the jury's determinations great deference. As we have stated:

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[3]Syllabus Point 1, *Appalachian Power Co. v. State Tax Dept. of West Virginia*, 195 W.Va. 573, 466 S.E.2d 424 (1995).

[4]Syllabus Point 16, *Peters v. Rivers Edge Min., Inc.*, 224 W.Va. 160, 680 S.E.2d 791 (2009) ("When reviewing an award of punitive damages . . . this Court will review *de novo* the jury's award of punitive damages and the circuit court's ruling approving, rejecting, or reducing such award.")

[5]Syllabus Point 1, *Fredeking v. Tyler*, 224 W.Va. 1, 680 S.E.2d 16 (2009) ("The appellate standard of review for an order granting or denying a renewed motion for a judgment as a matter of law after trial pursuant to Rule 50(b) of the *West Virginia Rules of Civil Procedure* [1998] is *de novo*.").

> In determining whether there is sufficient evidence to support a jury verdict the court should: (1) consider the evidence most favorable to the prevailing party; (2) assume that all conflicts in the evidence were resolved by the jury in favor of the prevailing party; (3) assume as proved all facts which the prevailing party's evidence tends to prove; and (4) give to the prevailing party the benefit of all favorable inferences which reasonably may be drawn from the facts proved.[6]

We now turn to Charter's arguments.

III.
Discussion

Charter argues that the circuit court erred in not setting aside the jury's verdict, and offers three reasons in support. First, Charter argues that the circuit court incorrectly interpreted the Cable Television Systems Act, and thereby improperly created a private cause of action for damages to challenge cable television rates. Second, Charter argues that even if a private cause of action exists, Community Antenna failed offer direct evidence that Charter's conduct was the proximate cause of any harm to Community Antenna. Finally, Charter contends there was insufficient evidence to support the award of damages for tortious interference and punitive damages.

We consider each of these arguments in turn.

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[6]Syllabus Point 5, *Orr v. Crowder*, 173 W.Va. 335, 315 S.E.2d 593 (1983).

A.
Cause of Action under the Television Systems Act

The West Virginia Cable Television Systems Act[7] requires that rates for cable service be "just and reasonable" and not be "unduly discriminatory." The purpose of the Act is, in part, "to establish just, reasonable and nondiscriminatory rates and charges for the provision of cable service[.]"[8] Section 13 of the Act (*W.Va. Code*, 24D-1-13) charges the Public Service Commission with ensuring that cable operators[9] charge rates which are just and reasonable, and not unduly discriminatory and says, in pertinent part:

> (b) . . . [T]he commission shall regulate rates to ensure that they are just and reasonable both to the public and to the cable operator and are not unduly discriminatory.
>
> (c) . . . [T]he commission shall regulate charges other than those related to rates for the provision of basic cable service to ensure that they are just and reasonable and not unduly discriminatory.[10]

Charter's first argument is that only the Public Service Commission may determine if rates are unduly discriminatory. Charter argues that the circuit court erred in "creating" a private cause of action under the Cable Television Systems Act. Charter asserts – relying upon an array of cases interpreting *federal* law which hold that there is no cause of

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[7] *W.Va. Code*, 24D-1-1 to -27.

[8] *W.Va. Code*, 24D-1-1 [1999].

[9] "'Cable operator' means any person or group of persons (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in the cable system or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system." *W.Va. Code*, 24D-1-2(5) [1999].

[10] *W.Va. Code*, 24D-1-13(b), (c) [1999].

action for discriminatory cable rates under *federal* law – that there is, accordingly, no cause of action under *state* law.[11]

Community Antenna, however, contends that the Cable Television Systems Act, taken as a whole, gives citizens and cable operators a private right to enforce Section 13, in addition to the Public Service Commission's authority.

First, the Cable Television Systems Act gives both the Public Service Commission and any "other aggrieved party" the right to institute an action for any "relief to compel compliance" with the Act, or to restrain, prevent or prohibit "any illegal or unauthorized conduct" under the Act. Specifically, *W.Va. Code*, 24D-1-23(e) says:

> The commission or other aggrieved party may institute, or intervene as a party in, any action in any court of law seeking a mandamus, or injunctive or other relief to compel compliance with this chapter, or any rule, regulation, or order adopted hereunder, or to restrain or otherwise prevent or prohibit any illegal or unauthorized conduct in connection with this article.[12]

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[11]The cases cited by Charter relate to interpretations of the Federal Cable Act, 47 U.S.C. § 543. *See*, *e.g.*, *Mallenbaum v. Adelphia Communications Corp.*, 1994 WL 724981 (E.D.Pa. 1994); *Commonwealth of Pennsylvania v. Comcast Corp.*, 1994 WL 568479 (E.D.Pa. 1994); *Kentucky ex rel. Gorman v. Comcast Cable of Paducah, Inc.*, 881 F.Supp. 285 (W.D.Ky. 1995); *Aventura Cable Corp. v. Rifkin/Narragansett South Florida CATV Ltd. Partnership*, 941 F.Supp. 1189 (S.D.Fla. 1996). *See also*, *Broder v. Cablevision Systems Corp.*, 329 F.Supp.2d 551, 558 n.6 (S.D.N.Y.,2004) ("The courts have uniformly ruled that [47 U.S.C.] § 543(d) does not create an implied private right of action.").

[12]*W.Va. Code*, 24D-1-23(e) [1999].

Second, *W.Va. Code*, 24-D-1-22(c) of the Cable Television Systems Act gives a "complainant" who has concerns "regarding the operation of a cable system" all of the "rights . . . set forth" in Chapter 24 of the *West Virginia Code*.[13]

Chapter 24 of the *Code* creates the Public Service Commission, specifies the Commission's powers to regulate utilities,[14] and imposes various duties upon public utilities. Those duties include the duty not to discriminate in the prices charged to customers by charging "greater or less compensation . . . under the same or substantially similar circumstances and conditions," or giving "undue or unreasonable preference or advantage" to some customers over others.[15] Chapter 24 goes on to create procedures for the Commission to enforce violations of these statutory duties.

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[13]*W.Va. Code*, 24D-1-22(a) and (c) [1999] state, in part:

> (a) Complaints of affected parties regarding the operation of a cable system must be made in writing and filed with the commission. . . .
>
> (c) In the event that the commission cannot resolve the complaint to the satisfaction of all parties, the complainant may file a formal request to the commission and the complainant and cable operator shall be afforded all rights including the right of appeal as set forth in chapter twenty-four of this code.

[14]*W.Va. Code*, 24-1-1 [1986] empowers the Commission to "[e]nsure that rates and charges for utility services are just, reasonable, applied without unjust discrimination or preference . . . and based primarily on the costs of providing these services[.]" However, the Cable Television Systems Act says that, "No provision of this article may be construed to grant the commission the power to regulate the cable television industry as a utility." *W.Va. Code*, 24D-1-26 [1999].

[15]*W.Va. Code*, 24-3-2 [1983].

In addition, Chapter 24 permits any "person, firm or corporation," damaged by a public utility's violation of the duties created by Chapter 24, to bring a suit for the recovery of the damages in any circuit court. Specifically, *W.Va. Code*, 24-4-7 says:

> Any person, firm or corporation claiming to be damaged by any violation of this chapter by any public utility subject to the provisions of this chapter, may make complaint to the commission, as provided herein, and bring suit in his own behalf for the recovery of the damages for which such public utility may be liable under this chapter in any circuit court having jurisdiction.[16]

This right to a private cause of action against public utilities has existed since Chapter 24 was first adopted by the Legislature in 1913.

Community Antenna asserts that by reading *W.Va. Code*, 24D-1-22(c), -23(e), and *W.Va. Code*, 24-4-7 together, it is clear that the Legislature intended for any person, firm or corporation damaged by a violation of the Cable Television Systems Act to be permitted to institute a private suit for damages caused by the violation. After examining the precise words chose by the Legislature in adopting these statutes, we agree.

"The primary object in construing a statute is to ascertain and give effect to the intent of the Legislature."[17] "A statutory provision which is clear and unambiguous and plainly expresses the legislative intent will not be interpreted by the courts but will be given full force and effect."[18]

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[16]*W.Va. Code*, 24-4-7 [1913].

[17]Syllabus Point 1, *Smith v. State Workmen's Comp. Comm'r*, 159 W.Va. 108, 219 S.E.2d 361 (1975).

[18]Syllabus Point 2, *State v. Epperly*, 135 W.Va. 877, 65 S.E.2d 488 (1951). *In accord*,
(continued...)

Our rules of statutory construction require us to give meaning to all provisions in a statutory scheme, if at all possible.[19] We must apply statutes so that no legislative enactment is meaningless, and to read them to harmonize with legislative intent.[20] "Statutes which relate to the same subject matter should be read and applied together so that the Legislature's intention can be gathered from the whole of the enactments."[21] "It is always presumed that the legislature will not enact a meaningless or useless statute."[22]

Furthermore, statutes are not to be construed in a vacuum, but must be read in the context of the general system of law of which the Legislature intended it to be a part:

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[18](...continued)
Syllabus Point 5, *State v. General Daniel Morgan Post No. 548, Veterans of Foreign Wars*, 144 W.Va. 137, 107 S.E.2d 353 (1959) ("When a statute is clear and unambiguous and the legislative intent is plain, the statute should not be interpreted by the courts, and in such case it is the duty of the courts not to construe but to apply the statute."); Syllabus Point 2, *Crockett v. Andrews*, 153 W.Va. 714, 172 S.E.2d 384 (1970) ("Where the language of a statute is free from ambiguity, its plain meaning is to be accepted and applied without resort to interpretation.").

[19]*See* Syllabus Point 2, *Smith v. State Workmen's Compensation Com'r*, 159 W.Va. 108, 219 S.E.2d 361 (1975) ("In ascertaining legislative intent, effect must be given to each part of the statute and to the statute as a whole so as to accomplish the general purpose of the legislation.").

[20]Syllabus Point 1, *State ex rel. Holbert v. Robinson*, 134 W.Va. 524, 59 S.E.2d 884 (1950) ("A statute is enacted as a whole with a general purpose and intent, and each part should be considered in connection with every other part to produce a harmonious whole. Words and clauses should be given a meaning which harmonizes with the subject matter and the general purpose of the statute. The general intention is the key to the whole and the interpretation of the whole controls the interpretation of its parts.").

[21]Syllabus Point 3, *Smith v. State Workmen's Compensation Com'r*, 159 W.Va. 108, 219 S.E.2d 361 (1975).

[22]Syllabus Point 4, *State ex rel. Hardesty v. Aracoma-Chief Logan No. 4523, Veterans of Foreign Wars*, 147 W.Va. 645, 129 S.E.2d 921 (1963).

> A statute should be so read and applied as to make it accord with the spirit, purposes and objects of the general system of law of which it is intended to form a part; it being presumed that the legislators who drafted and passed it were familiar with all existing law, applicable to the subject matter, whether constitutional, statutory or common, and intended the statute to harmonize completely with the same and aid in the effectuation of the general purpose and design thereof, if its terms are consistent therewith.[23]

In other words, statutes must be read in *pari materia* to ensure that legislative intent is being effected. "Statutes which relate to the same persons or things, or to the same class of persons or things, or statutes which have a common purpose will be regarded in *pari materia* to assure recognition and implementation of the legislative intent. Accordingly, a court should not limit its consideration to any single part, provision, section, sentence, phrase or word, but rather review the act or statute in its entirety to ascertain legislative intent properly."[24]

We have reviewed the Cable Television Systems Act in its entirety, as well as considered its place in the overall scheme of regulation by the Public Service Commission, and we conclude that the Legislature plainly intended to create a private cause of action for violations of the Act. We therefore hold that under the Cable Television Systems Act, any person, firm or corporation damaged by a violation of the Act by any cable operator may bring suit for the recovery of the damages for which such cable operator may be liable.

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[23]Syllabus Point 5, *State v. Snyder*, 64 W.Va. 659, 63 S.E. 385 (1908).

[24]Syllabus Point 5, *Fruehauf Corp. v. Huntington Moving & Storage Co.*, 159 W.Va. 14, 217 S.E.2d 907 (1975). *See also*, Syllabus Point 3, *State ex rel. Graney v. Sims*, 144 W.Va. 72, 105 S.E.2d 886 (1958) ("Statutes in pari materia must be construed together and the legislative intention, as gathered from the whole of the enactments, must be given effect.").

Accordingly, we find that the circuit court properly allowed Community Antenna to proceed to trial with its allegations that it had suffered damages because Charter had, in violation of the Act, charged rates that were unduly discriminatory and were neither just nor reasonable.

B.
A Rational Basis for Cable Rates and Direct Evidence

Charter's second argument is an attack on the quality of the evidence introduced by Community Antenna in support of its case. Charter argues that there was an obvious rational basis for its various special pricing plans, and argues that Community Antenna failed to prove otherwise. Charter argues that the circuit court, as a matter of law, should have given deference to Charter's pricing decisions and determined there was a rational basis for its differing treatment of its own customers. Additionally, Charter argues that Community Antenna failed to show that the special pricing plans were the sole motivating cause for the customer choosing to sign a contract with Charter rather than Community Antenna.

In our 2006 decision in *Community Antenna v. Public Service Commission*,[25] we indicated that Charter's buy-back pricing plans were "simply rate discrimination" under the Cable Television Service Act.[26] We found that the "record clearly demonstrates that a very few customers benefitted from Charter's targeting of [Community Antenna] customers

[25]*Community Antenna Service, Inc. v. Public Service Commission of West Virginia*, 219 W.Va. 425, 633 S.E.2d 779 (2006).

[26]219 W.Va. at 440, 633 S.E.2d at 794.

and potential customers and the vast majority of Charter customers were forced to pay much higher rates for the same services."[27] We concluded that Charter's claim that its pricing plans were not unduly discriminatory was "legally unsupported" because the plans "were not universally applied."[28]

Justice Benjamin, writing for the Court in *Community Antenna*, crafted a test to measure whether a cable operators's pricing plan was reasonable and not unduly discriminatory: "there must be a rational basis for classifying or categorizing certain customers of cable systems from other customers."[29] As the opinion states in Syllabus Point 4:

> The non-discrimination provisions contained in 47 U.S.C. § 543(e) (1996) require a rational basis for the classification or categorization of cable customers where such classifications result in different treatment with respect to rates and/or services provided.

We found in *Community Antenna* that the Public Service Commission had erred in its assessment of whether Charter had committed any undue discrimination, and remanded the case so that the Commission could determine if "there was a rational basis for the 'customer categories' to which Charter offers its 'reduced or promotional rates[.]'"[30]

Charter asserts that the circuit court erred in its interpretation of *Community Antenna*'s rational basis test. Charter argues that the phrase "rational basis" in *Community*

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[27]219 W.Va. at 436 n. 21, 633 S.E.2d at 790 n. 21.

[28]219 W.Va. at 440, 633 S.E.2d at 794.

[29]*Id*.

[30]219 W.Va. at 441, 633 S.E.2d at 795.

Antenna has a meaning co-equal with the rational basis test in constitutional equal protection cases — namely that it "describes [a] minimal level of scrutiny"[31] or "the least level of scrutiny"[32] that is highly deferential to government actors. Charter asserts that the circuit court should have been deferential to its business decisions regarding pricing, and should have found a rational basis existed as a matter of law "rather than simply holding that the evidence allowed the jury to find no rational basis."

We reject Charter's interpretation of the phrase "rational basis." In *Community Antenna*, we stated that "in order for separate categories of customers to be 'reasonable,' there must be a rational basis for establishing the categories."[33] We recognized that "the phrase 'rational basis' is also associated with prohibited state imposed discrimination and violations of the principles of equal protection."[34] However, we made it clear that while the line of cases involving constitutional questions "is instructive"[35] and "analogous,"[36] it "is not dispositive[.]"[37]

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[31]*Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994).

[32]*Lewis v. Canaan Valley Resorts, Inc.*, 185 W.Va. 684, 691, 408 S.E.2d 634, 641 (1991).

[33]*Community Antenna*, 219 W.Va. at 436, 633 S.E.2d at 790.

[34]*Id.*

[35]*Id.*

[36]219 W.Va. at 437, 633 S.E.2d at 791.

[37]219 W.Va. at 436, 633 S.E.2d at 790.

In a world of limited resources, and with respect to separation of powers, courts accord deference to legislative and executive branch actors in constitutional, equal protection cases. We have therefore allowed these governmental actors to create a classification if it bears a "reasonable relationship to a proper governmental purpose."[38] But such deference is not afforded to a private, non-governmental entity. We indicated in *Community Antenna* that a non-governmental entity "may classify its patrons" and charge each class different rates only so long as it shows that the rates do not "give an undue or unreasonable preference or advantage to or make an unfair discrimination among its patrons and consumers under the same or substantially similar circumstances and conditions."[39]

We concluded in *Community Antenna* that Charter failed to "offer a rationale . . . that former Charter customers who became [Community Antenna] customers or who threatened to do so formed a reasonable category to whom discriminatory rates could be charged."[40] Special pricing, to have a rational basis under the Cable Television Systems Act, must be based upon justifiable differences in the economic benefits the cable operator derives from servicing categories of customers to whom special pricing is offered. Based upon the record, we cannot say that the circuit court erred in submitting a similar question to the jury.

Charter also argues that Community Antenna failed to establish that the buy-back pricing plans were the proximate cause of any damages to Community Antenna.

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[38]Syllabus Point 4, in part, *Gibson v. West Virginia Dept. of Highways*, 185 W.Va. 214, 406 S.E.2d 440 (1991).

[39]219 W.Va. at 437, 633 S.E.2d at 791.

[40]219 W.Va. at 440, 634 S.E.2d at 794.

Charter posits that if there are multiple possible causes for a plaintiff's alleged injury, only one of which is attributable to the defendant's actions, then a jury may not be permitted to find causation. Charter asserts that there is no direct evidence that any customer left Community Antenna "because of" Charter's challenged pricing plans. Although circumstantial evidence was introduced that Charter may have caused Community Antenna harm, Charter argues that the circuit court should not have permitted the jury to speculate as to why any *specific* customer, among the 800 claimed, made the change.

Community Antenna responds that federal law precluded both Community Antenna and Charter from providing specific information about the name, address, or any other identifying information of any customer who benefitted from Charter's buy-back pricing plans.[41] Hence, no specific customer's testimony was introduced at trial, and the reasons for each customer's decision could not be presented. Still, Community Antenna asserts that the numerous memos, work orders, and other documents introduced to the jury circumstantially proved that some customers switched service to Charter because of the pricing plans. Further, testimony by Charter employees indicates that the pricing plans were designed, and which worked, as an incentive to influence customers' decisions.

The essence of Charter's argument is that Community Antenna should not have been allowed to prove its case by circumstantial evidence, but should have been required to prove it by direct evidence. Such a position is in no way supported by the law.

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[41] *See*, 47 U.S.C. § 551 [1992].

"Circumstantial evidence is information that tends directly to prove or disprove not a fact in issue but a fact or circumstance from which, either alone or in connection with other facts and circumstances, one may, according to the common experience of mankind, reasonably infer the existence or nonexistence of a fact that is in issue. . . . In West Virginia and in federal courts, civil and criminal verdicts may be based entirely upon circumstantial evidence."[42]

A plaintiff relying on circumstantial evidence to establish that a defendant's conduct caused a harm is not required to exclude every other possible cause. "There may be two or more plausible explanations as to how an event happened or what produced it . . . [I]f there is evidence which points to any one theory of causation, indicating a logical sequence of cause and effect, then there is a juridical basis for such a determination, notwithstanding the existence of other plausible theories with or without support in the evidence."[43]

For example, in the context of product liability actions, we have said that a plaintiff is not required "to conclusively eliminate all possible contributing causes other than a defect for an accident. Instead, a plaintiff is only required to submit evidence that has the capacity to sway the outcome of the litigation, and from which a jury could fairly conclude

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[42]Franklin D. Cleckley, 1 *Handbook on Evidence for West Virginia Lawyers*, §1-2(F)(2) [4th Ed. 2000].

[43]*Oates v. Continental Ins. Co.*, 137 W.Va. 501, 512, 72 S.E.2d 886, 892 (1952) (*quoting Southern Ry. Co. v. Dickson*, 211 Ala. 481, 100 So. 665, 669 (1924)).

that the most likely explanation of the accident involves the causal contribution of a product defect."[44]

> The plaintiff is not required to eliminate with certainty all other possible causes of the accident. It is sufficient if the evidence reasonably eliminates other causes such as the handling or misuse of the product by others than the manufacturer, thus permitting the fact finder to find that it was more [probable] than not that the product was defective.[45]

Put another way,

> The defect need not be the only cause of the incident; if the plaintiff can prove that the most likely explanation of the harm involves the causal contribution of a product defect, the fact that there may be other concurrent causes of the harm does not preclude liability[.][46]

"A *prima facie* case is not overcome by evidence which merely affords a bare conjecture to the contrary."[47]

We hold that a plaintiff relying on circumstantial evidence to establish the cause of a harm is not required to eliminate all other possible causes of the harm. A plaintiff is only required to submit evidence from which the jury can conclude, by a preponderance of the evidence, that the defendant's conduct caused the harm. The fact that there may be other causes of the harm does not preclude liability.

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[44] *Bennett v. Asco Services, Inc.*, 218 W.Va. 41, 48, 621 S.E.2d 710, 717 (2005). *See also*, *Anderson v. Chrysler Corp.*, 184 W.Va. 641, 403 S.E.2d 189 (1991).

[45] *Bennett v. Asco Services, Inc.*, 218 W.Va. 41, 48-49, 621 S.E.2d 710, 717-18 (2005) (*quoting* 2 Am.L.Prod.Liab. 3d § 31:26).

[46] *Bennett*, 218 W.Va. at 49, 621 S.E.2d at 718 (*quoting Restatement (Third) of Torts: Products Liability*, § 3, cmt. c and d [1998]).

[47] Syllabus, *Scioto Livestock Sales Co. v. Crockett*, 116 W.Va. 27, 178 S.E. 427 (1935).

Approximately 800 of Charter's customers benefitted from the special buy-back pricing plans. The records and testimony about those sales at trial constitutes strong circumstantial evidence from which the jury could have inferred — via a logical sequence of cause and effect — that the pricing plans were the reason customers switched to Charter from Community Antenna, or abandoned their intent to switch to Community Antenna. Community Antenna was not required to eliminate with certainty all other possible reasons why customers accepted Charter's buy-back pricing plan. We therefore believe that the jury could have properly concluded that the buy-back pricing plans were a proximate cause of Community Antenna's losses.

C.
Sufficiency of the Evidence of Damages

At trial, Community Antenna offered evidence and expert testimony indicating that, as a result of Charter's buy-back pricing plans, Community Antenna had suffered lost past profits, lost business opportunity profits, and lost future profits. The jury awarded damages of $1,150,954 for unduly discriminatory cable rates, and $1,446,350 for tortious interference.

Charter argues that the jury's verdict is not supported by the evidence. However, we have made clear that because a jury's

> verdict below is entitled to considerable deference, an appellate court should decline to disturb a trial court's award of damages

> on appeal as long as that award is supported by some competent, credible evidence going to all essential elements of the award.[48]

After carefully examining the evidence and testimony of compensatory damages offered by Community Antenna, we believe that the jury's verdict is well within the evidence presented. Accordingly, we decline to disturb the trial court's award of damages for unduly discriminatory cable rates and for tortious interference.

Charter also argues that the jury's award of $1,500,000 in punitive damages is unsupported by the evidence. Charter points to our statement in *Community Antenna* where we said that this case presents "a complex maze of interrelating applicable federal and state laws,"[49] for which there was "no direct judicial precedent from this or any other jurisdictions."[50] Because of this legal complexity, Charter argues that, as a matter of law, its conduct could not have demonstrated a willful indifference or intent to violate legal standards. Charter also argues that the Public Service Commission never imposed penalties for this exact same pricing conduct.[51]

Community Antenna responds that there was sufficient evidence for the jury to find that Charter acted oppressively, maliciously, and/or wantonly in its continued use of unduly discriminatory cable rates to tortiously interfere with Community Antenna's business

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[48]Syllabus Point 4, in part, *Reed v. Wimmer*, 195 W.Va. 199, 465 S.E.2d 199 (1995).

[49]*Community Antenna*, 219 W.Va. at 431, 633 S.E.2d at 785.

[50]219 W.Va. at 432 n.14, 633 S.E.2d at 786 n.14.

[51]*See* Syllabus Point 4, *Garnes v. Fleming Landfill, Inc.*, 186 W.Va. 656, 413 S.E.2d 897 (1991) ("When the trial court reviews an award of punitive damages, the court should, at a minimum, consider . . . (2) Any criminal sanctions imposed on the defendant for his conduct[.]").

expectations. The jury viewed Charter's internal communications showing Charter had more than an intent to compete fairly and developed the pricing scheme out of ill will to "crush" or "devastate" Community Antenna. Community Antenna argues that the laws prohibiting undue discrimination were first enacted in 1990, and yet Charter began its buy-back pricing plans in 1999. Further, Charter continued to use the buy-back pricing plans until 2003 — that is, after Community Antenna filed the instant counterclaim in late 2000, after Community Antenna filed a complaint with the Public Service Commission in May 2001, and after an administrative law judge concluded such plans were unduly discriminatory in August 2002. Community Antenna also introduced evidence that Charter concealed its pricing scheme from its other, similarly-situated customers.

"Our punitive damage jurisprudence includes a two-step paradigm: first, a determination of whether the conduct of an actor toward another person entitles that person to a punitive damage award under *Mayer v. Frobe*, 40 W.Va. 246, 22 S.E. 58 (1895); second, if a punitive damage award is justified, then a review is mandated to determine if *the* punitive damage award is excessive under *Garnes v. Fleming Landfill, Inc.*, 186 W.Va. 656, 413 S.E.2d 897 (1991)."[52]

On the first step, we must consider whether Charter's actions constitute "gross fraud, malice, oppression, or wanton, willful, or reckless conduct or criminal indifference to civil obligations affecting the rights of others" so as to support an award of punitive

[52]Syllabus Point 7, *Alkire v. First Nat. Bank of Parsons*, 197 W.Va. 122, 475 S.E.2d 122 (1996).

damages.[53] We believe that the jury in the instant case assessed Charter's conduct, and properly found the conduct was sufficiently grievous to warrant an award of punitive damages.

In the second step, we must consider whether there was any meaningful constraint upon the jury's discretion in awarding punitive damages, and whether there was any meaningful and adequate review of the jury's verdict by the circuit court, as required by *Garnes v. Fleming Landfill, Inc.*, 186 W.Va. 656, 413 S.E.2d 897 (1991). We give each punitive damage verdict a careful review if a party asks, but a petition seeking review "must address each and every factor set forth in Syllabus Points 3 and 4 of [*Garnes*] with particularity, summarizing the evidence presented to the jury on the subject or to the trial court at the post-judgment review stage. Assignments of error related to a factor not specifically addressed in the petition will be deemed waived as a matter of state law."[54]

In the instant case, Community Antenna points out that Charter has largely waived its *Garnes* arguments, because it has failed to specifically address each and every factor of the *Garnes* analysis, and has not summarized much of the evidence presented to the jury and the trial court. While we agree, we have still reviewed the record and find that the jury was properly instructed on the factors contained in Syllabus Point 3 of *Garnes*. The jury's verdict bears a reasonable relationship to the jury's compensatory damage determination, and is in accord with the harm that is likely to be caused to one cable

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[53]*See* Syllabus Point 4, in part, *Mayer v. Frobe*, 40 W.Va. 246, 22 S.E. 58 (1895).

[54]Syllabus Point 5, *Garnes v. Fleming Landfill, Inc.*, 186 W.Va. 656, 413 S.E.2d 897 (1991).

company by another's unjust, unfair and discriminatory pricing. We have carefully reviewed the record in light of the factors in *Garnes*, and we find that the jury's punitive damage award is supported by the record. The circuit court committed no error by refusing to set aside or reduce that verdict.

IV.
Conclusion

The circuit court's January 5, 2010 order is affirmed.

Affirmed.

IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA

COMMUNITY ANTENNA SERVICE, INC.,
a corporation,

Plaintiff,

v.

Civil Action No. 00-C-505
(Judge Beane)

CHARTER COMMUNICATIONS VI, LLC,

Defendant.

Bond No. 51S10322685610 005

FINAL AGREED ORDER DISCHARGING SUPERSEDEAS AND APPEAL BOND

On this day came Plaintiff, Community Antenna Service, Inc. ("CAS"), by counsel, and Defendant, Charter Communications VI, LLC ("Charter"), by counsel, in support of their Joint Motion to Discharge Supersedeas and Appeal Bond. The aforementioned Supersedeas and Appeal Bond bears the Number 51S10322686510 005 and was posted by Travelers Casualty and Surety Company of America, as surety, in the referenced case for the amount of $4,768,731.50 at the request of Charter, as principal, and in favor of CAS, as judgment creditor. The full amount owed to CAS under judgment of this Court has been paid, and thus, the judgment of this matter is satisfied. Therefore, the Supersedeas and Appeal Bond is no longer required and should be discharged, and the Travelers Casualty and Surety Company of America and its parents, affiliates, and subsidiaries ("Travelers") be released from any and all liability thereon.

Accordingly, it is **ORDERED AND ADJUDGED** by the Court that the judgment has been fully satisfied, as evidenced by the attached Satisfaction of Judgment to be filed with the Circuit Court of Wood County, West Virginia, a copy of which is attached hereto, and therefore, the Supersedeas and Appeal Bond is no longer required and is hereby fully and unconditionally

ENTERED
CA O.B. No. 288
PAGE 457

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CAROLE JONES
CLERK CIRCUIT COURT

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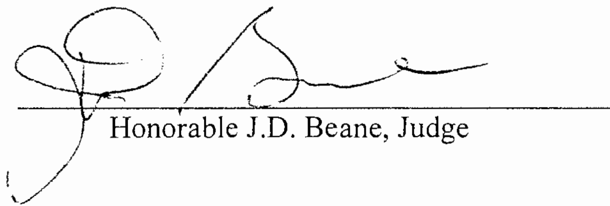
discharged, released, and exonerated and Travelers is hereby released from any and all past, present, and future liability arising under or in connection with the issuance of the Supersedeas and Appeal Bond. This Order is final and non-appealable by the parties.

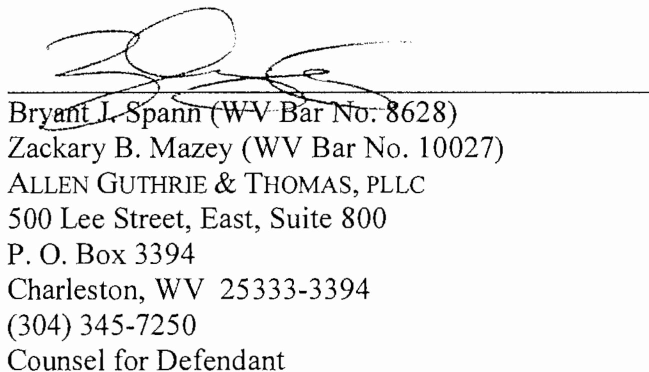
It is further **ORDERED AND ADJUDGED** that the Clerk of the Court is hereby directed to forthwith release the said Supersedeas and Appeal Bond recorded with this court to Bryant J. Spann, Esq., and Zackary B. Mazey, Esq., for immediate return to Travelers.

ENTERED this 5t day of August, 2011.



Honorable J.D. Beane, Judge

PREPARED AND PRESENTED FOR ENTRY BY COUNSEL:



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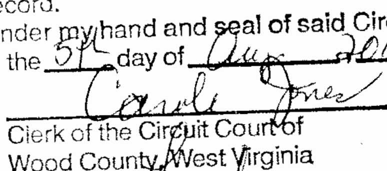
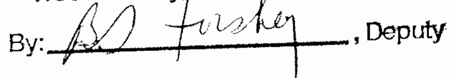
STATE OF WEST VIRGINIA
COUNTY OF WOOD, TO-WIT:

I, CAROLE JONES, Clerk of the Circuit Court of Wood County, West Virginia, hereby certify that the foregoing is a true and complete copy of an order entered in said Court, on the 1st day of Aug., 2011, as fully as the same appears to me of record.

Given under my hand and seal of said Circuit Court, this the 5th day of Aug. 2011.



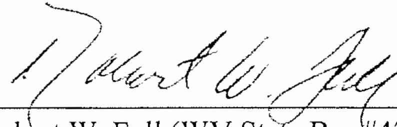
Clerk of the Circuit Court of
Wood County, West Virginia



By: ____________, Deputy

00-C-505

APPROVED FOR ENTRY BY COUNSEL:



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<u>EXHIBIT C-2</u>

FCC SDV Notices of Apparent Liability and Orders

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	File Number EB-07-SE-352
	)	
Oceanic Time Warner Cable,	)	NAL/Acct. No. 200932100022
a division of Time Warner Cable, Inc.	)	
Oceanic Kauai Cable System	)	FRN 0018049841
	)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: January 19, 2009 **Released: January 19, 2009**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* ("*NAL*"), we find that Time Warner Cable, Inc. ("TWC") apparently willfully violated a Commission Order and Section 76.939 of the Commission's Rules ("Rules")[1] by failing to comply with a Bureau directive to describe the methodology it planned to use to refund money to subscribers harmed by the company's apparent violation of various Commission Rules.[2] We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),[3] that TWC is apparently liable for a forfeiture in the amount of twenty-five thousand dollars ($25,000).

II. BACKGROUND

2. On November 8, 2007, the Spectrum Enforcement Division of the Enforcement Bureau ("Bureau") issued a Letter of Inquiry ("LOI")[4] to TWC based on complaints that the company had moved certain cable channels that previously had been accessible to subscribers using CableCARD-equipped UDCPs, such as digital cable ready television sets and digital video recorders, to a switched digital video ("SDV") platform. In doing so, TWC made the affected channels inaccessible to subscribers unless they leased a set top box from the company. The LOI sought information on a number of issues, and asked the company to explain how its implementation of SDV was consistent with various statutory and regulatory provisions and orders.

3. TWC responded to the LOI on November 30, 2007,[5] and subsequently provided additional information to the Bureau in response to supplemental LOIs and information requests. On October 15, 2008, the Enforcement Bureau issued the *Oceanic Kauai NAL and Order*, finding that the

[1] 47 C.F.R. §76.939 ("Cable operators shall comply with … the Commission's requests for information, orders, and decisions.").

[2] *See Oceanic Time Warner Cable, Kauai Cable System,* Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 14962, 14976-77, paras. 39-40, 43 (Enf. Bur. 2008) ("*Oceanic Kauai NAL and Order*") (response received).

[3] 47 U.S.C. § 503(b).

[4] *See* Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission to Mark Lawrence-Apfelbaum, Esq., Executive Vice President and General Counsel, Time Warner Cable, Inc. (Nov. 8, 2007) ("Nov. 8 LOI").

[5] *See* Letter from Arthur H. Harding, Fleischman and Harding LLP and Matthew A. Brill, Latham & Watkins LLP, Counsel for Time Warner Cable, to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (Nov. 30, 2007) ("Nov. 30 LOI Response").

company's migration of programming to an SDV platform had apparently violated various Commission Rules and orders. Consequently, the *Oceanic Kauai NAL and Order* proposed a forfeiture against the company in the amount of $20,000 for the company's apparent violations.

4. Additionally, the *Oceanic Kauai NAL and Order* directed the company to provide refunds to subscribers harmed by the implementation and to provide us with an outline of the company's planned methodology for issuing those refunds.[6] Specifically, the *Oceanic Kauai NAL and Order* ordered TWC, within ninety (90) days of release of the *Oceanic Kauai NAL and Order,* to take the following steps:

(a) For former CableCARD customers that began to lease any set-top boxes from TWC following notice of a possible SDV deployment, TWC must refund the difference in cost (if any) between the charges for the TWC set-top boxes and the CableCARDs previously leased by such customers; and

(b) For CableCARD customers that kept their CableCARDs even after notice of the SDV deployment, TWC must refund the customers' subscriber fees based on the diminished value of their service following the movement of linear programming to an SDV platform and reduce their rates on a going-forward basis accordingly.

5. The *Oceanic Kauai NAL and Order* also required TWC to submit to the Enforcement Bureau an explanation of the method the company plans to use to determine the appropriate amount of refunds, the number of customers receiving refunds, the total value of such refunds, and the planned timing of such refunds. The *Oceanic Kauai NAL and Order* directed TWC to submit this information to the Enforcement Bureau for review and approval within thirty (30) days of the release of this decision and to proceed with its proposed refund plan within sixty (60) days of such submission provided the Enforcement Bureau approves TWC's proposed refund plan within thirty (30) days of TWC's submission.[7]

6. TWC responded to the NAL on November 14, 2008.[8] The company also filed a Petition for Reconsideration and a Request for Stay of the *Oceanic Kauai NAL and Order.*[9] TWC did not provide any information about its methodology for issuing refunds to subscribers harmed by its apparent violations of Commission Rules, instead arguing that the *Oceanic Kauai NAL and Order* was unlawful. Nor has the company taken any other steps to comply with the *Oceanic Kauai NAL and Order.* Instead, TWC requests that the *Oceanic Kauai NAL and Order* either be stayed, pending final resolution of the issues in this matter, or be cancelled in its entirety.[10]

III. DISCUSSION

A. TWC Apparently Has Violated a Commission Order And Section 76.939

7. We find that TWC apparently willfully[11] violated a Commission order and Section

[6] *Oceanic Kauai NAL and Order,*23 FCC Rcd at 14976, para. 39-40, 43.

[7] *Id.* at 14976, paras. 39-40.

[8] *Time Warner Cable, Inc.'s Response to Notices of Apparent Liability and Request for Cancellation of Proposed Forfeitures*, File No. EB-07-SE-352 (filed Nov. 14, 2008) ("TWC NAL Response").

[9] *Petition for Reconsideration of Time Warner Cable, Inc.,* File No. EB-07-SE-352 (filed Nov. 14, 2008) ("TWC Petition for Reconsideration"); *Time Warner Cable, Inc. Request for Stay Pending Resolution of Petition for Reconsideration and Request for Cancellation of Proposed Forfeitures,* File No. EB-07-SE-352 (filed Nov. 14, 2008) ("TWC Request for Stay").

[10] We will address those filings by separate order.

[11] Section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history of Section 312(f)(1) of the Act indicates that this definition of willful applies to both Sections 312 and 503(b) of the Act, H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982), and the Commission has so interpreted the term in the Section 503(b) context.

76.939 of the Rules. The Commission has broad investigatory authority under Sections 4(i), 4(j), and 403 of the Act, its Rules, and relevant precedent. Section 4(i) authorizes the Commission to "issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions."[12] Section 4(j) states that "the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice."[13] Section 403 grants the Commission "full authority and power to institute an inquiry, on its own motion ... relating to the enforcement of any of the provisions of this Act."[14] Pursuant to Section 76.939 of the Rules, a cable operator must comply with FCC requests for information, orders, and decisions.[15]

8. The *Oceanic Kauai NAL and Order* expressly directed TWC to provide the Bureau with an outline of its intended refund methodology. We reject any contention that TWC was not obligated to comply fully with the Bureau's order because of the pendency of its Petition for Reconsideration and Request for Stay.[16] The filing of such pleadings does not trigger an automatic stay of such order.[17] Neither the Bureau nor the Commission has granted TWC's Request for Stay or Petition for Reconsideration. Thus, TWC should have submitted its proposed refund methodology by November 14, 2008, in compliance with the terms of the *Oceanic Kauai NAL and Order*. As the Commission has stated, "parties are required to comply with Commission orders even if they believe them to be outside the Commission's authority."[18] TWC failed to do so. We find, therefore, that TWC apparently willfully[19] violated a Commission order and Section 76.939 of the Rules.

B. Proposed Forfeiture

9. Under Section 503(b)(1)(B) of the Act, any person who is determined by the Commission

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See, e.g., Southern California Broadcasting Co., Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387-88 ¶ 5 (1991) ("*Southern California Broadcasting*").

[12] 47 U.S.C. § 154(i).

[13] 47 U.S.C. § 154(j).

[14] 47 U.S.C. § 403.

[15] 47 C.F.R. § 76.939 ("Cable operators shall comply with ... the Commission's requests for information, orders, and decisions."). In carrying out this obligation, a cable operator also must provide truthful and accurate statements to the Commission or its staff in any investigatory or adjudicatory matter within the Commission's jurisdiction. *Id.*

[16] We further note that although TWC posits several arguments related to the refund provision, those arguments do not address that portion of the *Oceanic Kauai NAL and Order* that requires TWC to submit its proposed refund methodology to the Bureau within 30 days. Instead, TWC's arguments decry the *issuance* of the refund to the subscribers harmed by its acts, a distinct and separate act required under the *Oceanic Kauai NAL and Order*.

[17] *See* 47 C.F.R. §§ 1.102(b), 1.106(n), 1.429(k).

[18] *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591 para. 5 (2002) ("*SBC Forfeiture Order*"); *see also* 47 U.S.C. § 408 (Commission orders "shall continue in force for the period of time specified in the order or until the Commission or a court of competent jurisdiction issues a superseding order."); 47 U.S.C. § 416(c) ("It shall be the duty of every person, its agent and employees ... to observe and comply with such orders so long as the same shall remain in effect"); *Peninsula Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 2832, 2834 para. 5 (2002) (subsequent history omitted) (a regulatee "cannot ignore a Commission order simply because it believes such order to be unlawful"); *World Communications Forfeiture Order,* 19 FCC Rcd at 2719-2720 (issuing forfeiture against regulatee who failed to respond to an LOI because it believed the LOI to be beyond the Commission's jurisdiction).

[19] Section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history of Section 312(f)(1) of the Act indicates that this definition of willful applies to both Sections 312 and 503(b) of the Act, H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982), and the Commission has so interpreted the term in the Section 503(b) context. *See, e.g., Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387-88 ¶ 5 (1991) ("*Southern California Broadcasting*").

to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.[20] To impose such a forfeiture penalty, the Commission must issue a notice of apparent liability and the person against whom such notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.[21] The Commission will then issue a forfeiture if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.[22] We conclude under this standard that TWC is apparently liable for forfeiture for its apparent willful violation of a Commission Order and Section 76.939 of the Rules.

10. Under Section 503(b)(2)(A) of the Act,[23] we may assess a cable operator a forfeiture of up to $37,500 for each violation, or for each day of a continuing violation up to a maximum of $375,000 for a single act or failure to act. In exercising such authority, we are required to take into account "the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."[24]

11. Section 1.80 of the Rules and the Commission's *Forfeiture Policy Statement* do not establish a base forfeiture amount for violations of Section 76.939, although they do establish four thousand dollars ($4,000) as the base amount for failure to respond to Commission communications.[25] We find that TWC's apparent failure to comply with the *Oceanic Kauai NAL and Order* warrants a substantially larger forfeiture. Misconduct of this type exhibits contempt for the Commission's authority and threatens to compromise the Commission's ability to carry out its obligations under the Act. In this case, TWC's apparent violations have impeded our efforts to carry out the statutory dictates of Section 629 of the Act and perpetuated harm to affected subscribers.

12. We therefore propose a forfeiture of twenty-five thousand dollars ($25,000) against TWC for its apparent violations of the *Oceanic Kauai NAL and Order* and Section 76.939. This forfeiture amount is consistent with precedent in similar cases, where companies failed to provide responses to

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[20] 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1).

[21] 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

[22] *See, e.g., SBC Forfeiture Order*, 17 FCC Rcd at 7591.

[23] 47 U.S.C. § 503(b)(2)(A). The Commission has amended Section 1.80(b)(3) of the Rules, 47 C.F.R. § 1.80(b)(3), three times to increase the maximum forfeiture amounts, in accordance with the inflation adjustment requirements contained in the Debt Collection Improvement Act of 1996, 28 U.S.C. § 2461. *See Amendment of Section 1.80 of the Commission's Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, 23 FCC Rcd 9845 (2008) (adjusting the maximum statutory amounts for broadcasters and cable operators from $32,500/$325,000 to $37,500/$375,000); *Amendment of Section 1.80 of the Commission's Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, Order, 19 FCC Rcd 10945 (2004) (adjusting the maximum statutory amounts for broadcasters and cable operators from $27,500/$300,000 to $32,500/$325,000); *Amendment of Section 1.80 of the Commission's Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, Order, 15 FCC Rcd 18221 (2000) (adjusting the maximum statutory amounts for broadcasters and cable operators from $25,000/$250,000 to $27,500/$300,000). The most recent inflation adjustment took effect September 2, 2008 and applies to violations that occur after that date. *See* 73 Fed. Reg. 44663-5. TWC's apparent violations occurred after September 2, 2008 and are therefore subject to the higher forfeiture limits.

[24] 47 U.S.C. § 503(b)(2)(E). *See also* 47 C.F.R. § 1.80(b)(4), Note to paragraph (b)(4): Section II. Adjustment Criteria for Section 503 Forfeitures.

[25] *See* 47 C.F.R. § 1.80(b)(4); *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd. 17087 (1997), *recon. denied*, 15 FCC Rcd. 303 (1999).

Bureau inquiries concerning compliance with the Commission's rules despite evidence that the LOIs had been received.[26].

IV. ORDERING CLAUSES

13. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and Section 1.80 of the Rules, and the authority delegated by Sections 0.111 and 0.311 of the Commissions Rules, Time Warner Cable, Inc. is **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twenty-five thousand dollars ($25,000) for its willful violation of a Commission Order and Section 76.939 of the Rules.

14. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules, within thirty (30) days of the release date of this *Notice of Apparent Liability for Forfeiture*, TWC **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

15. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. TWC will also send electronic notification on the date said payment is made to JoAnn.Lucanik@fcc.gov and Kevin.Pittman@fcc.gov.

16. The response, if any, must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Acct. No. referenced in the caption. The response should also be e-mailed to JoAnn Lucanik, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, FCC, at JoAnn.Lucanik@fcc.gov and Kevin M. Pittman, Esq., Spectrum Enforcement Division, FCC, at Kevin.Pittman@fcc.gov.

17. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

18. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail return receipt requested to counsel for Time

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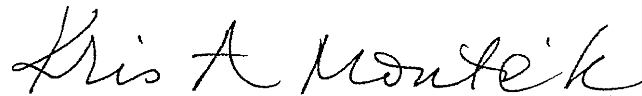
[26] *See e.g., SBC Forfeiture Order*, 17 FCC Rcd at 7599-7600 ¶¶ 23-28 (ordering $100,000 forfeiture for egregious and intentional failure to certify the response to a Bureau inquiry) ("*SBC Forfeiture Order*"); *Digital Antenna, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 7600, 7602 (Spectr. Enf. Div., Enf. Bur. 2008) (proposing $11,000 forfeiture for failure to provide a complete response to an LOI); *BigZoo.Com Corporation*, Forfeiture Order, 20 FCC Rcd 3954 (Enf. Bur. 2005) (ordering $20,000 forfeiture for failure to respond to an LOI).

Warner Cable, Inc., Matthew A. Brill, Esq., Latham & Watkins LLP, 555 11th Street, NW, Suite 1000, Washington, DC, 20004.

FEDERAL COMMUNICATIONS COMMISSION



Kris Anne Monteith
Chief, Enforcement Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	File Number EB-07-SE-352
	)	
Oceanic Time Warner Cable,	)	NAL/Acct. No. 200932100002
a division of Time Warner Cable, Inc.	)	
Oceanic Kauai Cable System	)	FRN 0018049841

FORFEITURE ORDER

Adopted: January 19, 2009 **Released: January 19, 2009**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order*, we find that Oceanic Time Warner Cable, a division of Time Warner Cable, Inc., Oceanic Kauai Cable System (collectively, "TWC"), willfully and repeatedly violated Section 76.1201 of the Commission's Rules ("Rules") in its Oceanic Kauai Cable System.[1] Specifically, TWC violated Section 76.1201 by moving certain channels to a Switched Digital Video ("SDV") platform on November 6, 2007, thereby preventing subscribers with CableCARD-equipped unidirectional digital cable products ("UDCPs") from using their navigation devices to access these channels.[2] Further, in its deployment of SDV on November 6, 2007, TWC violated Section 76.640(b)(1) by failing to provide a virtual channel table which conforms to the standards required under Sections 76.640(b)(1)(i) and 76.640(b)(1)(v). We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),[3] that TWC is liable for a forfeiture in the amount of twenty thousand dollars ($20,000). As discussed below, we further direct TWC to comply with the Bureau's Order to make appropriate refund of fees charged to customers affected by TWC's movement of linear channels to the SDV platform on November 6, 2007.[4]

[1] 47 C.F.R. § 76.1201.

[2] Navigation devices refer to "converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems." 47 C.F.R. § 76.1200(c). UDCPs refer to devices that have the ability to receive encrypted digital cable programming, but do not have any upstream, or bidirectional, capabilities. For example, such devices cannot support two-way services such as Electronic Programming Guides (EPGs), Voice on Demand (VOD), Pay Per View (PPV), and other interactive capabilities. *See Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, Compatibility Between Cable Systems and Consumer Electronics Equipment*, Third Further Notice of Proposed Rulemaking, 22 FCC Rcd 12024, 12025-26 (2007) ("*Third Further Notice of Proposed Rulemaking*"). *See also* 47 C.F.R. § 15.123(a).

[3] 47 U.S.C. § 503(b). This *Forfeiture Order* is issued through the coordinated effort of the Commission's Enforcement Bureau and Media Bureau. *See* 47 C.F.R. §§ 0.61(f)(5), 0.111(15).

[4] TWC's notice to its customers, as well as technical papers submitted by the company to the Bureau, support our (continued....)

II. BACKGROUND

2. Congress and the Commission have long recognized the importance of allowing consumers the freedom to purchase their own navigation devices from sources other than their cable operator, satellite provider, or other multichannel video programming distributor ("MVPD"). Thus, Congress adopted Section 629 of the Act,[5] which requires the Commission to ensure the commercial availability of navigation devices. By separating the security and navigation functions of equipment used to receive MVPD programming, Congress hoped to spur competition and expand consumer choice. As the House Report accompanying Section 629 noted, "competition in the manufacturing and distribution of consumer devices has always led to innovation, lower prices and higher quality. Clearly, consumers will benefit from having more choices among telecommunications subscription services available through various distribution sources."[6] At the same time, Congress recognized that MVPDs have "a valid interest, which the Commission should continue to protect, in system or signal security and in preventing theft of service."[7]

3. In its order proposing rules implementing Section 629, the Commission stated that its overarching goal was to assure competition in the availability of set-top boxes and other customer premises equipment.[8] "As navigation devices are the means to deliver analog and digital communications, competition in the navigation equipment market is central toward encouraging innovation in equipment and services, and toward bringing more choice to a broader range of consumers at better prices."[9]

4. Thus, in adopting Section 76.1201 of the Commission's Rules,[10] which allows subscribers to acquire, attach, and use any compatible navigation device with an MVPD's system, subject to the proviso that such equipment not cause harmful interference or facilitate theft of service, the Commission likened its actions to the *Carterfone* principle it previously adopted in the telephone environment.[11] In *Carterfone,* the Commission allowed consumers to attach legal devices to the telephone network unless that equipment would damage the network. "As a result of *Carterfone* and other Commission actions, ownership of telephones moved from the network operator to the consumer. As a result, the choice of features and functions incorporated into a telephone has increased substantially, while the cost of equipment has

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characterization of TWC's actions as "moving" or "migrating" linear programming to a SDV platform.

[5] 47 U.S.C. § 549. Section 629 was adopted as part of the Telecommunications Act of 1996. Pub. L. No. 104-104, 110 Stat. 56 (1996).

[6] H.R. REP. NO. 104-204, at 112 (1995).

[7] *Id.*

[8] *Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Devices,* Notice of Proposed Rulemaking, 12 FCC Rcd 5639, 5641 (1997).

[9] *See Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices,* Report and Order, 13 FCC Rcd 14775, 14776, para. 2 (1998) ("*Navigation Devices Order*").

[10] 47 C.F.R. § 76.1201.

[11] *See Navigation Devices Order*, 13 FCC Rcd at 14478 (citing *Use of the Carterfone Device in Message Toll Service,* Decision, 13 FCC 2d 420, 424-25 (1968), *recon. denied*, 14 FCC 2d 571(1968)).

decreased."[12] The Commission emphasized that "[f]ollowing the *Carterfone* principle adopted in the telephone context would allow subscribers the option of owning their own navigation devices and would facilitate the commercial availability of equipment."[13] The Commission stated that "[t]he steps taken in this Report and Order, if implemented promptly and in good faith, should result in an evolution of the market for navigation devices so that they become generally and competitively available."[14]

5. The Commission recognized that its work on these issues was not complete and reiterated its commitment to monitoring developments regarding the compatibility of set-top boxes and digital televisions.[15] Five years later, in the *Plug and Play Order*,[16] the Commission took further steps to facilitate the direct connection of digital navigation devices (including commercially available UDCPs) to MVPD systems. Specifically, the Commission considered standards agreed upon by the cable and consumer electronics ("CE") industries[17] and adopted a cable compatibility standard for integrated, unidirectional digital cable television receivers, as well as other UDCPs, to ensure the compatibility and commercial availability of UDCPs with cable television systems.

6. Generally, the *Plug and Play Order* required MVPDs to support operation of UDCPs and ensure the utilization of such navigation devices in connection with their cable systems. In addition, the Commission required MVPDs to make available a security element separate from the basic navigation device. Under this framework, the Commission sought to enable unaffiliated manufacturers, retailers, and other vendors to commercially market UDCPs while allowing MVPDs to retail control over their system security.

7. Consumers with UDCPs access MVPD programming by using a CableCARD leased from the cable operator.[18] UDCPs, and certain related CE equipment, employ a standard

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[12] *Navigation Devices Order Id.* at 14780, para. 11.

[13] *Id.* at 14786.

[14] *Id.* The Commission recognized that "the parallel to the telephone has limitations" and specifically stated that the rules it adopted in implementing Section 629 of the Act sought to accommodate the differences from the telephone model.

[15] *Id.* at 14781.

[16] *Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, Compatibility Between Cable Systems and Consumer Electronics Equipment*, Second Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 20885 (2003) ("*Plug and Play Order*"). "The term 'plug and play' refers to a device's ability to plug into a cable system and receive digital cable programming without a cable-operator provided set-top box." *Third Further Notice of Proposed Rulemaking*, 22 FCC Rcd at n.9.

[17] *See December 2002 Memorandum of Understanding Among Cable MSOs and Consumer Electronics Manufacturers. Id.* at note 3 (citing Letter from Carl E. Vogel, President and CEO, Charter Communications, *et al.*, to Michael K. Powell, Chairman, FCC (Dec. 19, 2002) ("2002 MOU")). The MOU "reflects a compromise agreement among the parties [cable and consumer electronics industries] on a specification that will permit the manufacture of unidirectional cable television receivers that include [the same] ... navigation functionality [that currently exists for set-top boxes]."

[18] In most cases, the MVPDs have employed CableCARDs as their separate-security solution to enable non-integrated conditional access. *But see Cablevision Systems Corporation's Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, Memorandum Opinion and Order, 22 FCC Rcd 220, 221-222 (2007). The Commission granted Cablevision a waiver of the ban on cable operator deployment of set-top boxes with integrated security to allow Cablevision to use a Smart-Card-based separate-security solution, which is CableCARD-

(continued....)

interface that permits them to negotiate with the CableCARD. The CableCARD descrambles the MVPD's encoded digital signal and allows the subscriber to view the programming. Thus, commercially available UDCPs can be compatible with cable systems nationwide, while cable operators maintain their ability to secure programming content from unauthorized viewing. In theory, this arrangement allows consumers access to all of a cable operator's linear programming[19] without the need of a separate set-top box leased from their cable operator, while protecting the cable operator from theft of its programming services.[20]

8. But recent events have demonstrated the limits of this theory. Traditionally, cable systems have used broadcast-type technologies that deliver all programs to all subscribers whether the subscribers view the programs or not. The programs not viewed nonetheless occupy system bandwidth (which prevents the use of that bandwidth for any other purpose). Many cable operators, however, have begun to test and deploy SDV technology in their cable systems. In an SDV system, a subset of programming is delivered in the traditional way to all subscribers whether they are viewing the programs or not. For those channels, the CableCARD-equipped UDCP will work as described above, allowing the subscriber to view the channels delivered in the traditional broadcast manner. The remaining channels are switched through the use of SDV network equipment located at a "hub" (where signals are converted and placed onto the "last mile" coaxial portion of the network). These switched channels do not occupy bandwidth, and are not available to subscribers until a subscriber tunes to that channel by sending a request, using a remote or program guide, upstream through the use of a set-top box to the hub. At the hub, the SDV equipment directly receives and processes set-top channel change requests for switched content and responds to that set-top with the frequency and program number where that content can be found. Once the hub receives the request, it immediately begins to transmit the channel. A customer who uses a CableCARD-equipped UDCP to receive programming must have additional equipment with the necessary upstream signaling capability to obtain the switched (i.e., bi-directional) channels. The UDCP cannot perform the bi-directional functions necessary to request that a channel be delivered via SDV. Nor can the CableCARD, which is designed only to provide the separate security element, provide the necessary interface needed to send the signal to the SDV server. Thus, in essence, in an SDV system, all subscribers must have a cable-operator supplied set-top box to view channels placed on the SDV platform.

9. On November 8, 2007, the Spectrum Enforcement Division of the Enforcement Bureau ("Bureau") issued a Letter of Inquiry ("LOI")[21] to TWC based on complaints that the company had moved certain cable channels that previously had been accessible to subscribers using CableCARD-equipped UDCPs, such as digital cable ready television sets and digital video recorders, to an SDV platform. Specifically, one complainant alleged that Oceanic had deployed SDV and moved a large number of channels to an SDV platform, including popular high

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compatible with the use of an adaptor.

[19] The term "linear programming" is generally understood to refer to video programming that is prescheduled by the programming provider. *Cf.* 47 U.S.C. § 522(12) (defining "interactive on-demand services" to exclude "services providing video programming prescheduled by the programming provider").

[20] *Third Further Notice of Proposed Rulemaking,* 22 FCC Rcd at 12025 ¶¶3-4.

[21] *See* Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission to Mark Lawrence-Apfelbaum, Esq., Executive Vice President and General Counsel, Time Warner Cable, Inc. (Nov. 8, 2007) ("LOI").

definition ("HD") sports and entertainment channels.[22] According to the complaints, Oceanic's implementation of SDV necessarily required customers using a CableCARD to obtain additional equipment, *i.e.*, a set-top box, from the cable company to continue to receive all cable channels available to them prior to the change to the SDV platform.[23] The LOI sought information on a number of issues, and asked the company to explain how its implementation of SDV was consistent with Section 629 of the Act, Commission rules implementing that statute,[24] the 2002 MOU,[25] and in particular, the policies and rules established by Commission in the *Plug and Play Order*[26] The Bureau issued a Supplemental LOI to TWC on August 25, 2008 to obtain additional information concerning the company's deployment of SDV.[27]

10. TWC responded to the LOI on November 30, 2007,[28] and responded in part to the Supplemental LOI on September 12, 2008[29] and in full on September 23, 2008.[30] In its response, TWC admits that its Oceanic and Kauai cable systems deployed SDV for customers on the islands of Oahu and Kauai on November 6, 2007, moving 62 linear channels to an SDV platform.[31] TWC reports that its Hawaii Division, which includes the cable systems at issue

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[22] *See* Letter from Robert A. Flatt to Kevin J. Martin, Chairman, Federal Communications Commission dated Nov. 7, 2007 (available as a comment in CS Docket No. 97-08) ("*Flatt Complaint*"). According to the August 21, 2007 notice that TWC sent to its Hawaii subscribers, Oceanic planned to move certain channels to a two-way switched digital platform on September 24, 2007. TWC ultimately delayed its deployment of SDV until November 6, 2007. *See* Letter from Arthur H. Harding, Fleischman and Harding LLP and Matthew A. Brill, Latham & Watkins LLP, counsel for TWC, dated September 12, 2008 ("Initial Supplemental LOI Response") at Exhibit A.

[23] *Id.* at 1. In addition to the *Flatt Complaint*, the Commission has received several other complaints from TWC customers about Oceanic's SDV deployment. We provided relevant excerpts and identifying information for those complaints in Attachment A to the *Oceanic Time Warner Cable, a subsidiary of Time Warner Cable, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 14962 (Enf. Bur. 2008) (*"TWC NAL and Order")*. Unlike the *Flatt Complaint*, these complaints were not filed in a public Commission docket, so we will treat the complainants' names as confidential for privacy reasons.

[24] The LOI stated we were investigating possible violations of Section 629 of the Act, 47 U.S.C. § 549, and Sections 76.640, 76.980(f), 76.984, 76.1204, 76.1206, and 76.1603 of the Commission's rules, 47 C.F.R. §§ 76.640, 76.980(f), 76.984, 76.1204, 76.1206, and 76.1603.

[25] *See Plug and Play Order*, 18 FCC Rcd at 20885 n.3.

[26] *Id.* at 20885.

[27] *See* Letter from JoAnn Lucanik, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission to Arthur H. Harding, Fleischman and Harding LLP and Matthew A. Brill, Latham & Watkins LLP, counsel for TWC, (Aug. 25, 2008) ("Supplemental LOI"). The Supplemental LOI noted that the investigation now included possible violations by TWC of Sections 76.1201 and 76.1202 of the Rules. 47 C.F.R. §§ 76.1201, 76.1202. *Id.*, at note 3.

[28] *See* Letter from Arthur H. Harding, Fleischman and Harding LLP and Matthew A. Brill, Latham & Watkins LLP, Counsel for Time Warner Cable, to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (Nov. 30, 2007) ("LOI Response").

[29] *See* Letter from Arthur H. Harding, Fleischman and Harding LLP and Matthew A. Brill, Latham & Watkins LLP, Counsel for Time Warner Cable, to Marlene H. Dortch, Secretary, Federal Communications Commission (Sept. 12, 2008) ("Initial Supplemental LOI Response").

[30] *See* Letter from Arthur H. Harding, Fleischman and Harding LLP and Matthew A. Brill, Latham & Watkins LLP, Counsel for Time Warner Cable, to Marlene H. Dortch, Secretary, Federal Communications Commission (Sept. 23, 2008) ("Final Supplemental LOI Response").

[31] Initial Supplemental LOI Response, Exhibit A.

here, had 415,534 subscribers at the time of SDV deployment.[32] The company does not have a precise estimate of the number of CableCARD-using UDCPs affected by its SDV deployment, but believes it to be less than 583.[33] For CableCARD customers affected by its SDV deployment, TWC offered set-top boxes at the same price as the customers' CableCARDs for two years from the date of SDV deployment.[34] TWC states that it had planned to deploy SDV on several other Hawaiian islands, but has deferred that action until it has provided 30 days notice to the relevant Local Franchising Authority ("LFA").[35]

11. On October 14, 2008, after reviewing the evidence and TWC's arguments, the Bureau issued a *Notice of Apparent Liability for Forfeiture and Order,*[36] finding that TWC apparently had willfully violated Sections 76.1201 and 76.640(b)(1) of the Rules by moving certain channels to a SDV platform on November 6, 2007, thereby preventing subscribers with CableCARD-equipped UDCPs from using their navigation devices to access these channels and by failing to provide a virtual channel table which conforms to the standards required under Sections 76.640(b)(1)(i) and 76.640.(b)(1)(v).

12. TWC responded to the NAL on November 14, 2008.[37] With respect to the NAL's finding of apparent liability under Section 76.1201, TWC makes three principal arguments. First, TWC asserts that the NAL's finding of apparent liability violates the plain meaning of the rule. According to TWC, the language "prevent the connection or use" of a navigation device means that a cable operator can be held liable only where it has made it impossible for a customer to connect or use the device.[38] Second, TWC asserts that the NAL's "overly expansive reading" of the rule violates important public policy objectives.[39] Third, TWC argues that the NAL intrudes upon its First Amendment rights.[40] TWC similarly asserts that the Bureau's finding that TWC apparently violated Section 76.640 is flawed.[41] Finally, TWC asserts that the

[32] *Id.*

[33] TWC reported 583 UDCP CableCARD subscribers at the time of deployment for its entire Hawaii Division, which includes not only the Oceanic and Kauai cable system, but also several other systems. Although some subscribers may have more than one UDCP, this number probably overstates the number of affected devices. *Id.*

[34] *Id.*

[35] In its most recent offer, TWC limited the period for affected CableCARD customers to receive a free set-top box to six months. *Id.*

[36] *Oceanic Time Warner Cable, a subsidiary of Time Warner Cable, Inc.,* Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 14962 (Enf. Bur. Oct. 15, 2008) (*"TWC NAL and Order").*

[37] *Time Warner Cable Inc. Response to Notices of Apparent Liability and Request for Cancellation of Proposed Forfeitures,* File No. EB-07-SE-352 (filed Nov. 14, 2008) (TWC NAL Response). Together with its NAL Response, TWC also filed *Time Warner Cable Inc. Request for Stay Pending Resolution of Petition for Reconsideration and Request for Cancellation of Proposed Forfeitures,* EB-07-SE-352 (filed Nov. 14, 2008) and *Petition for Reconsideration of Time Warner Cable Inc.*, EB-07-SE-352 (filed Nov. 14, 2008). TWC's *Request for Stay* and *Petition for Reconsideration* will be addressed in subsequent orders.

[38] *TWC NAL Response* at 15-20.

[39] *Id.* at 20-28.

[40] *Id.* at 32-37.

[41] *Id.* at 37-42.

NAL findings present novel interpretations of the rules at issue and thereby exceed the bounds of the Bureau's delegated authority.[42]

III. DISCUSSION

A. TWC Willfully and Repeatedly Violated Section 76.1201 By Requiring Subscribers To Obtain A Set-Top Box To View Previously Accessible Linear Programming

13. Section 76.1201 of the Rules prohibits an MVPD from "prevent[ing] the connection or use of navigation devices to or with its system" unless such devices would cause electronic or physical harm or allow the unauthorized receipt of service.[43] Based on the record before us, we find that TWC willfully and repeatedly[44] violated Section 76.1201 by moving certain linear channels to an SDV platform in its Kauai and Oceanic cable systems[45] on November 6, 2007.[46] In so doing, TWC prevented subscribers with UDCPs, such as "digital cable ready" televisions and TiVo recorders, from viewing the switched linear channels that were already part of their subscription package without the use of a TWC-supplied set-top box, thus effectively impairing the use of those UDCPs within each affected cable system. Additionally, because a TWC-leased set-top box now is required to view many TWC channels, even on UDCP devices, TWC's migration of channels to an SDV platform has prevented the use of some functions available on those UDCPs, such as the capacity to view picture-in-picture and record content.[47]

1. The NAL's Findings Are Not Foreclosed by the Plain Language of Section76.1201

14. Notwithstanding its effect on CableCARD users, TWC contends that the language "prevent the connection or use of navigation devices," as used in Section 76.1201, makes clear that a cable operator can be held liable only where it has stopped or made it impossible for a customer to connect or use the device.[48] According to TWC, its implementation of SDV does not *stop* a subscriber from doing so or "make[it] impossible" for a customer to do so.[49] TWC

[42] *Id.* at 43.

[43] 47 C.F.R. § 76.1201.

[44] *See* 47 U.S.C. § 312(f)(1) & (2) (defining a "willful" violation as the "conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission," and defining "repeated" as "the commission or omission of such act more than once."). The definition of willful and the definition of repeated apply to violations for which forfeitures are assessed under Section 503(b) of the Act. *See Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387 (1991), *recon. denied* 7 FCC Rcd 3454 (1992).

[45] As noted earlier, TWC states that its Oceanic and Kauai cable systems deployed SDV for the islands of Oahu and Kauai. Initial Supplemental LOI Response, Exhibit A.

[46] We are aware that other TWC cable systems have implemented SDV and will address the legality of those actions in future proceedings.

[47] As enacted, Section 624A of the Act expressly mandates that the Commission "minimize interference with or nullification of the special functions of subscriber's television receivers or video cassette recorders," and thus ensure the full compatibility of these devices with the cable system. 47 U.S.C. § 544a(c)(1)(B).

[48] *TWC NAL Response* at 15.

[49] *Id.*

asserts that the Bureau found only that the company's implementation of SDV "impairs," rather than prevents, the use of such devices and thus the Bureau's finding is insufficient for purposes of finding a violation of the standard set forth in the rule.[50]

15. We do not agree that a violation of Section 76.1201 occurs only where a cable operator "stops" or "makes it impossible" for a customer to connect or use a navigation device. At its core, TWC would have us find that unless a cable operator prevents access to each and every program and service that constitutes the customer's subscribed programming tier, no violation of Section 76.1201 has occurred. Under TWC's interpretation of Section 76.1201, a cable operator may prevent (non-cable operator-supplied) UDCPs from accessing any portion of a programming service (or transport stream) — such as closed captioning or content advisory information — or may prevent these devices from accessing any linear video programming— such as select channels within a subscriber's purchased programming tier — and nonetheless act consistently with the Commission's mandate to support CableCARD-equipped devices. As we stated in the *TWC NAL and Order,* taken to its logical conclusion, TWC's reasoning would permit an MVPD to move *all* of its programming to an SDV platform without regard for the impact its actions would have on customers using or wishing to use CableCARD-equipped UDCPs. TWC's interpretation would eviscerate the rule, is inconsistent with the operative text of Section 76.1201– "use of navigation devices," and the Commission's goal to ensure commercial compatibility of such devices. Considering that the primary objective of Section 629 of the Act and Sections 76.1200-76.1210 of the Rules is to maximize the commercial availability of navigation devices, we decline to adopt a view of our Rule that ignores the plain text and the purpose of these sections.[51]

16. Moreover, TWC's strained interpretation of the Rule would be fundamentally at odds with the Commission's goal of protecting cable subscribers' ability to view signals through the use of commercially available navigation devices offered in a competitive market. TWC's movement of linear channels that were previously accessible with a CableCARD-equipped UDCP to a switched digital platform that can only be accessed with a TWC-provided set-top box conflicts with the Commission's rules and policies designed to promote competition and consumer choice of navigation devices. Our conclusion is not affected by the fact that customers can still attach and use navigation devices to receive cable services, and that customers may access switched digital programming by obtaining a set top box from TWC. In the *Plug and Play Order,* the Commission sought to enable *unaffiliated* manufacturers, retailers, and other vendors to compete with MVPD-provided equipment by facilitating the direct connection of digital navigation devices to MVPD systems.

17. TWC further argues that the rule was historically intended to do no more than provide a right to attach commercially available equipment and does not include an obligation that an operator carry any service used by such equipment.[52] We concur that in adopting this rule, the Commission agreed that the 'right to attach' must be subject to the limitation that the equipment does not harm the MVPD network.[53] Thus, the Commission adopted rules that would

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[50] *Id.*

[51] *See Thomas Jefferson University v. Shalala*, 512 U.S. 504 (1994) (agency's interpretation of its own rule must be given controlling weight unless clearly erroneous).

[52] *TWC Response at 15-16.*

[53] *See Navigation Devices Order*, 13 FCC Rcd at 14789.

permit MVPDs to restrict the attachment or use of equipment to their systems where electronic or physical harm would be caused by the attachment or operation of such equipment.[54] The Commission was clear however, that "[t]hese standards [set forth in Section 76.1203] shall be used only to prevent attachment of navigation devices that raise reasonable and legitimate concerns of electronic or physical harm or theft of service, and *not as a means to unreasonably restrict the use of navigation devices obtained from a source other than the MVPD*."[55] The Commission was equally clear that it expected the cable industry to dedicate the resources necessary to ensure that commercially available CableCARD-enabled devices continue to interoperate properly with cable systems.[56] The equipment at issue does not raise concerns of electronic or physical harm or theft of service.

18. Finally, we disagree with TWC's claims that there is no record support for the allegation that as a result of the deployment of SDV, UDCPs lose certain functions, such as picture-in-picture, and that the NAL does not take the balanced approach to equipment compatibility that is required by Section 624A.[57] Section 624A of the Act expressly mandates that the Commission "minimize interference with or nullification of the special functions of subscriber's television receivers or video cassette recorders,"[58] and thus ensures the full compatibility of these devices with the cable system. The deployment of SDV and the requirement that a customer use a company-supplied set top box to view the now switched channels, negates whatever functionalities were available in the UDCP for those of the company-supplied set-top box. Unless the complaints referenced below are TW complaints don't know that we need the rest of this paragraph]The Commission received numerous complaints from affected consumers. For instance, some cable operators have migrated linear HD programming to an SDV format, thus rendering useless the high definition capability of the navigation device. In addition, many complaints from consumers indicate that SDV deployment has affected their use of TiVo. One of TiVo's main features is the ability to watch one program while recording another (*i.e.*, TiVo Series 3 was designed with two CableCARD slots – one single-stream CableCARD ("S-Card") to decrypt the programming that the TiVo is recording, and another S-card to decrypt the programming that the TiVo is displaying). The functionality of TiVo is lost with the use of the company-supplied set-top box, which has its own built-in functionality.

2. The NAL's Findings Are Fully Consistent with the Public Policy Underlying the Commission's Rules and Orders on "*Plug and Play*"

19. TWC next argues that its manner of implementing SDV is not inconsistent with the *Plug and Play Order*.[59] Specifically, it contends that the interactive or advanced two-way capabilities envisioned by that order are not limited to video on demand (VOD), electronic programming guides (EPG), and impulse pay per view (IPPV); are essentially without limit; and thus include SDV within its auspices.[60] TWC impliedly states that it may move all of its programming to an SDV format because *Plug and Play* provided for this eventuality by

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[54] 47 § C.F.R. 76.1203.

[55] *Id.* (emphasis added).

[56] *But see 2005 Deferral Order,* 20 FCC Rcd at 6814.

[57] *TWC Response* at 17-20.

[58] 47 U.S.C. § 544a(c)(1)(B).

[59] *TWC Response* at 21.

[60] *Id.* at 22.

mandating DVI/HDMI connections, which allow for connection of UDCPs with two-way navigation devices. According to TWC, such an action is also supported by Rules that permit cable operators to move any programming for any reason -- no law provides subscribers with an entitlement to receive any particular service.[61]

20. The Bureau previously considered, and rejected, the arguments raised by TWC. As we have previously found, TWC's arguments are inconsistent with the language and the intent of the Commission's Rules and orders.[62] We do not believe that, in adopting the *Plug and Play Order*, the Commission intended to permit an MVPD move *all* of its programming to an SDV platform "without regard" for the impact such a move would have on its UDCP-owning customers. Such an outcome would be fundamentally inconsistent with the Commission's goal of protecting cable subscribers' ability to view signals through the use of commercially available navigation devices offered in a competitive market. TWC's movement of linear channels that were previously accessible with a CableCARD-equipped UDCP to a switched digital platform that can only be accessed with a TWC-provided set-top box is clearly at odds with the Commission's Rules and policies designed to promote competition and consumer choice of navigation devices.

21. While we recognize that the *Plug and Play Order* does not prohibit cable operators from developing and deploying new technology and services, we conclude that it does not permit TWC's actions here. By moving linear programming to an SDV platform, TWC prevents CableCARD-equipped UDCPs from receiving previously available channels and negates the usefulness of competitive commercially available navigation devices, in violation of the intent of Section 629 and the Commission's Rules.[63] The Commission recognized that devices made pursuant to the standard adopted in the *Plug and Play Order* lacked upstream or bi-directional capabilities and therefore could not receive certain programming or services, but that recognition did not extend to services that consumers traditionally experienced as one-way services.[64] At no point did the Commission authorize MVPDs to modify their transmission of linear programming such that UDCP devices could no longer receive such programming without a cable operator-provided set-top box.[65] Such an outcome is fundamentally at odds with the policy and regulatory objectives of the *Plug and Play Order*.

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[61] *Id.* at 23-25.

[62] *See Oceanic Kauai NAL*, 23 FCC Rcd at 14967. TWC also argues that "curtailing TWC's ability to deliver its programming of choice based on its selection of the most efficient technology available would likely run afoul of the First Amendment." *See Oct. 14 Supplemental LOI Response* at 5 (citation omitted). We reject this argument. The requirements at issue are content neutral and are narrowly tailored to further the substantial federal interest of maximizing commercial availability of navigation devices to the consumer. *See Turner Broadcasting System, Inc. v. FCC,* 512 U.S. 622, 662 (1994).

[63] *See* 47 U.S.C. § 549; 47 C.F.R. § 76.1201.

[64] "Due to the unidirectional nature of this receiver specification, an external navigation device would still be needed to receive advanced features such as cable operator-enhanced electronic programming guides ('EPGs'), impulse pay per view ('IPPV') or video on demand ('VOD')." *Plug and Play Order,* 18 FCC Rcd at 20890, ¶7. *See also Third Further Notice of Proposed Rulemaking,* 22 FCC Rcd at 12025-26, ¶ 4 ("Devices made pursuant to this standard have the ability to receive encrypted digital cable programming, but do not have any upstream, or bidirectional, capabilities (*i.e.*, consumer electronics manufacturers can only make unidirectional devices under the technical standard adopted in the *Plug and Play Order*). For example, such devices cannot support two-way services such as EPGs, VOD, PPV, and other ITV [Interactive Television] capabilities.").

[65] TWC's LOI Response cites an ex parte letter it filed in the *Plug and Play* docket in 2006. In that letter, TWC states that it informed staff from the Commission's Media Bureau "that SDV would impact some subscribers using

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22. Section 76.1201 was adopted to achieve the statutory requirement of alternative sources of navigation devices and to ensure the commercial availability of navigation devices.[66] The *Plug and Play Order* sought to provide further assurance of the commercial availability of navigation devices by requiring that cable operators support the operation of UDCP in connection with their cable systems. TWC's implementation of SDV in this case clearly negates the use of CableCARD-equipped UDCPs and fundamentally limits the commercial and competitive viability of those devices in cable systems where SDV has been deployed. In the instant case, customers who used CableCARD-equipped UDCPs are unable to receive dozens of linear channels after the deployment of SDV.[67] As such, TWC is effectively preventing CableCARD-equipped UDCPs from receiving channels previously available and undermining the underlying policy goals of the Act and the Commission's Rules to ensure the commercial availability and use of navigation devices. Thus, we find TWC's November 6, 2007 migration of linear channels to an SDV platform in its Oceanic Kauai Cable System constitutes a willful and repeated violation of Section 76.1201 of the Rules.

23. TWC again reasserts that it cannot achieve the efficiencies enabled by SDV without moving linear channels.[68] According to TWC, a finding of liability as a consequence for such migration would undermine "vital public policy interests," such as additional HD programming and other digital content for all customers.[69] TWC also asserts that a restriction on SDV would harm the Commission's own policy objectives, such as the digital transition, increased programming diversity, MVPD competition, and enhanced broadband capabilities.[70]

24. As we stated in the *TWC NAL and Order*, we do not dispute that the deployment of SDV technology may provide significant public benefits. It is not TWC's deployment of SDV technology that violates Section 76.1201, but TWC's migration of existing linear programming to an SDV tier that we find inconsistent with Commission Rules. As we noted in the *TWC NAL*

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[UDCPs], but noted that *these subscribers would continue to receive nearly all the same channels as subscribers using digital set top boxes*. Contrary to the suggestions of the Consumer Electronics Association in its March 23, 2006 *ex parte*, the use of SDV by TWC in no way contravenes our support of UDCPs." Letter from Steven N. Teplitz, Time Warner Cable, Inc. to Marlene Dortch, Secretary, Federal Communications Commission dated May 11, 2006 (filed in CS Docket 97-80) ("*TWC Ex Parte Letter*") (emphasis added). As the facts of this case demonstrate, TWC's removal of more than 60 channels, including popular HD channels, is inconsistent with the company's ex parte letter more than a year beforehand.

[66] *See Navigation Devices Order*, 13 FCC Rcd at 14786.

[67] According to the TWC notice announcing the deployment that ultimately took place on November 6, 2007, more than 40 channels would be moved to the SDV platform and no longer available without the use of a TWC-supplied set-top box: Digital Cable Service: (CSPAN-3, CSPAN-2, CNBC World, Bloomberg TV, The Weather Channel, AZN TV, Imaginasian, The Outdoor Channel, Country Music TV, VH1 Classic, BET On Jazz, Ovation), Sports Pak: (Fuel, NBA TV, The Tennis Channel, Fox College Sports-Atlantic, Fox College Sports-Central, Fox College Sports-Pacific, College Sports TV), Encore Service: (Fuse), Spanish Pak: (Galavision, Fox Sports World Espanol, CNN Espanol, Discovery en Espanol, CNN Espanol, ESPN Deportes), Premium: (Chinese Channel), HD Entertainment Pak: (HD Golf/HD Versus, HD Versus & Golf, HD Fsn, HD National Geographic, HD Net, HD Net Movies, iNDemand HD, ESPN HD, ESPN2HD, HD Universal), Jewelry Channel, Pentagon Channel, KOAM, Ocean Network, and Inspirational TV. *See also* TWC Initial Supplemental LOI Response, Exhibit A (stating that 62 channels ultimately were moved to SDV platform).

[68] *TWC Response* at 28-32.

[69] *Id.* at 30.

[70] *Id.* at 31-32.

and Order, charging for channels not presently accessible to subscribers with CableCARD-equipped UDCPs undermines the policy and regulatory objectives of the *Plug and Play Order*. Moreover, we are not convinced that the only way TWC can create additional capacity using SDV is to move existing linear programming to an SDV platform. Regardless of the benefits touted, the manner in which TWC has migrated linear channels prevents certain UDCP customers the use and functionality of their navigation devices.[71]

3. The NAL's Reading of Section 76.1201 Does Not Conflict with the First Amendment

25. TWC's arguments that the NAL runs afoul of the First Amendment are insubstantial. As an initial matter, TWC's contention that the NAL renders the Commission's *Viewability Order* unconstitutional lacks any merit.[72] In the *Viewability Order*, the Commission set forth a comprehensive analysis of why the requirement that all cable subscribers be able to view the signals of all must-carry stations after the digital transition was consistent with the First Amendment,[73] and the U.S. Court of Appeals for the District of Columbia Circuit recently dismissed a constitutional challenge to the *Viewability Order*.[74] The analysis contained in the *Viewability Order* in no way depended on the use of SDV under the circumstances present here, and the interpretation of our Rules set forth in the NAL neither alters the Commission's expectation that "cable capacity will continue to expand in future years, thus further decreasing the relative burden on cable operators" nor its observation that "because digital cable systems offer so much more capacity, the proportion of overall bandwidth devoted to must-carry signals is that much smaller than was the case at the time of the [U.S. Supreme Court decisions upholding the constitutionality of must-carry regulation]."[75]

26. Neither is there any merit to TWC's contention that the NAL violates the First Amendment by "impermissibly curtail[ing] TWC's editorial discretion to deliver programming of its choice using the most efficient technology available to it."[76] Simply put, TWC has no First Amendment right to undermine the development of a competitive market for navigation devices by preventing consumers from accessing linear programming in their existing programming packages with a CableCARD-equipped UDCP and instead requiring the consumer to obtain a TWC-provided set-top box. To the extent that the rules at issue here implicate the First Amendment at all, the requirements are content neutral and narrowly tailored to further the substantial federal interest in developing and maintaining a competitive market for navigation devices, an interest whose importance has been recognized by both Congress and the courts.[77]

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[71] We note TWC's claim that bi-directional navigation devices "are now becoming available at retail." *TWC Response* at 26. The development of bi-directional navigation devices without limitations on the ability to integrate broadband capability into competitive navigation devices and the ability to integrate web-based or IP content with cable-providing programming will further Congress and the Commission's shared policy goal of expeditious commercial availability of bi-directional navigation devices.

[72] See *Carriage of Digital Television Broadcast Signals*, Third Report and Order, 22 FCC Rcd 21064 (2007) ("*Viewability Order*").

[73] *See Viewability Order* at ¶¶ 41-63.

[74] *See C-SPAN, Inc. v. FCC*, 545 F.3d 1051 (D.C. Cir. 2008).

[75] *Viewability Order* at ¶ 60.

[76] *TWC Response* at 33.

[77] *See* 47 U.S.C. § 549; *Comcast Corp. v. FCC*, 536 F.3d 763 (D.C. Cir. 2008); *Charter Communications, Inc. v. FCC*, 460 F.3d 31 (D.C. Cir. 2006).

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Finally, while TWC complains that the First Amendment is implicated by the treatment of other MVPDs under the integration ban, the D.C. Circuit previously rejected the cable industry's attempt to raise the differential treatment of cable and DBS in another proceeding, noting the evidence set forth by the Commission of the distinctions in the navigation-device market for cable and DBS and observing that "the cable industry is 'perfectly capable of filing a petition tomorrow with the Commission' that will generate a record appropriate for consideration of those issues."[78] The same holds true here.

B. TWC Willfully Violated Section 76.640(b) by Failing to Comply with the Commission's Technical Rules Regarding the Provision of a Virtual Channel Table for SDV Programming

27. TWC contends that the *TWC NAL and Order*'s finding that the standard incorporated by reference in Section 76.640(b)(1)(i) applies to all services, including two-way services like SDV is wrong.[79] According to TWC, Section 76.640(b)(1)(i), through the incorporated standard SCTE 40 (2003), stands for the proposition that SCTE 65 tables must be presented only for services that are *offered* to the UDCP host device. Since two-way services are not offered, they need not be included.[80] TWC further asserts that because the text of the rule is limited to one-way products, it cannot reasonably be applied to two-way *services*.[81] Issues relating to two-way services, TWC states, were not yet ripe for consideration during the Commission's consideration of its *Plug and Play Order*, and so were never intended to be encompassed by this rule. TWC also cites to the technical standard SCTE 65 to suggest that the standard was not intended to apply to two-way services, partly because hidden channels are skipped when the subscriber is channel surfing, and partly because the standards state that UDCPs may disregard virtual channel data associated with an application-type virtual channel. TWC argues that the virtual channel table is designed to present only channels that are accessible.[82]

28. TWC's arguments are without merit. On its face, Section 76.640 applies only to unidirectional *products*.[83] Section 76.640(b)(1) makes no distinction between unidirectional and bi-directional *services*. Indeed, by its own terms, the standard incorporated by reference in Section 76.640(b)(1)(i) applies to *all services* – there is no exception for bi-directional services.[84]

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[78] *Charter*, 460 F.3d at 43 (quoting FCC counsel). Similarly, although TWC complains about a waiver given by the Media Bureau to Verizon, TWC never sought Commission review of that waiver, and this is not the appropriate proceeding for challenging its merits.

[79] *TWC Response* at 37.

[80] *Id.* at 37-38.

[81] *Id.*

[82] *TWC Response* at 38-40.

[83] *See* 47 C.F.R. §76.640 ("Support for unidirectional digital cable products on digital cable systems.").

[84] *Id.* at § 76.640(b)(1)(i) (incorporating by reference SCTE 40 2003, Section 5.5, which states that "[w]hen one or more scrambled services are offered on the cable system, System and Service Information for all services (both scrambled and in-the-clear) shall be carried in an out-of-band Forward Data Channel...").

Therefore, TWC is required to describe programming on an SDV platform in the out-of-band forward data channel and populate the virtual channel table with all of its programming services.

29. TWC next argues that, because Section 15.123 provides that a UDCP cannot be labeled as digital-ready unless it can navigate channels through the virtual channel table, the provision of SDV data to UDCPs would render them non-compliant since the devices would be unable to navigate to SDV programming.[85] According to TWC, as a result, the UDCP would be rendered noncompliant with the Part 15 rules, could not be marketed as digital cable ready, and cable operators would be relieved of any obligation to support these devices since they are required only to "support unidirectional digital cable products . . ."[86] TWC argues that rules are not to be interpreted in manner that would nullify corresponding rules. Lastly, TWC argues that there is no practical benefit to transmitting information for channels that cannot be viewed without a set-top box.[87]

30. We disagree. Requiring compliance with Section 76.640(b) does not conflict with Section 15.123 and provides a significant practical benefit. As we stated in the *TWC NAL and Order*, including the SDV programming in the virtual channel table would make it clear to TWC subscribers using CableCARD-equipped UDCPs that their cable operator is charging them for programming that they cannot see.[88] We reiterate that if TWC believed it had a legitimate reason to exclude two-way programming from the virtual channel table provided to customers with CableCARD-equipped UDCPs, the company should have sought a waiver of the relevant rules.[89] Accordingly, based on the record before us, we find that TWC willfully violated Section 76.640(b) by failing to provide a virtual channel table as required by Section 76.640(1)(b)(i) and 76.640(b)(1)(v) in its Oceanic Kauai Cable System.

C. The Bureau Did Not Exceed Its Delegated Authority in Issuing the NAL

31. TWC argues that the Bureau's expansive interpretations of the Rules and its decision to penalize the company present novel questions of policy and law; the issues, therefore, fall outside the scope of the Bureau's delegated authority and must be submitted to the Commission for en banc disposition under Section 0.311(a)(1).[90]

32. The Enforcement Bureau serves as the primary Commission entity responsible for enforcement of the Act, the Commission's rules, and Commission orders.[91] The Bureau has delegated authority to issue orders taking appropriate action in response to complaints or investigations, including issues notices of apparent liability and related orders.[92] The Bureau has delegated authority to decide matters unless they "present novel questions of law, fact or policy

[85] *TWC Response* at 41-42.

[86] *TWC Response* at 41.

[87] *Id.* at 42.

[88] *TWC NAL and Order*, XXX at para. 27.

[89] 47 C.F.R. § 76.1207.

[90] *TWC Response* at 43.

[91] 47 C.F.R. § 0.111.

[92] 47 C.F.R. § 0.111(17).

that cannot be resolved under existing precedents and guidelines."[93] The questions presented here are consistent with the Commission's *Plug and Play Order*, the rules found in Section 76.1201 implementing that order, and the technical rules of Section 76.640(b). As such, the Bureau acted within its delegated authority in issuing the *TWC NAL and Order*. The Bureau is merely applying existing rules and case law to the instant facts.

D. Forfeiture Calculation

33. Under Section 503(b)(1)(B) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.[94] To impose such a forfeiture penalty, the Commission must issue a notice of apparent liability and the person against whom such notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.[95] The Commission will then issue a forfeiture if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.[96] We conclude that TWC is liable for a forfeiture in the amount of twenty thousand dollars ($20,000) for its willful violation of Sections 76.1201, 76.640(b)(1)(i), and 76.640(b)(1)(v) of the Rules.

34. Under Section 503(b)(2)(A) and Section 1.80(b)(1) of the Commission's Rules,[97] we may assess a cable television operator a forfeiture of up to $32,000 for each violation or each day of a continuing violation, up to a statutory maximum forfeiture of $325,000 for any single continuing violation. In exercising such authority, we are required to take into account "the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."[98]

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[93] 47 C.F.R. § 0.311(a)(3).

[94] 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1).

[95] 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

[96] *See, e.g., SBC Communications, Inc.,* Forfeiture Order, 17 FCC Rcd 7589, 7591 (2002).

[97] 47 U.S.C. § 503(b)(2)(A); 47 C.F.R. § 1.80(b)(1). The Commission has repeatedly amended Section 1.80(b)(1) of the Rules to increase the maximum forfeiture amounts, in accordance with the inflation adjustment requirements contained in the Debt Collection Improvement Act of 1996, 28 U.S.C. § 2461. Most recently, the Commission raised the maximum forfeitures applicable to cable operators, broadcast licensees, and applicants for such authority from $32,500 to $37,500 for a single violation, and from $325,000 to $375,000 for continuing violation. *See* Inflation Adjustment of Maximum Forfeiture Penalties, 73 Fed. Reg. 44663, 44664 (July 31, 2008). The new forfeiture limits took effect September 2, 2008, apply to violations occurring after that date, and accordingly do not apply to this case.

[98] 47 U.S.C. § 503(b)(2)(E). *See also* 47 C.F.R. § 1.80(b)(4), Note to paragraph (b)(4): Section II. Adjustment Criteria for Section 503 Forfeitures. We consider TWC's apparent violations of Section 76.1201 to have begun on the date its cable system moved previously available linear programming to an SDV platform. TWC's apparent violations continue each day that such programming remains unavailable to customers using CableCARD-equipped UDCPs.

35. The Commission's *Forfeiture Policy Statement*[99] and Section 1.80 of the Rules do not establish a specific base forfeiture for violation of Section 76.1201.[100] In a similar case, the Commission proposed forfeitures for each cable system involved in the violation.[101] Thus, we establish a base forfeiture amount for each cable system in which linear programming has been moved to an SDV platform, thereby impairing customers' use of navigation devices such as UDCPs to view such programming. As noted above, this case involves one of TWC's Hawaii Division cable systems – Oceanic Kauai Cable System.

36. As we stated in the *TWC NAL and Order,* one analogous violation for which the Commission has already established a base forfeiture is violation of the cable broadcast signal carriage rule, which has a base forfeiture of $7,500.[102] Given the number of channels involved and the effect of actions like those here on the Commission's policy objectives, however, we conclude that a more significant penalty is appropriate. We conclude that $10,000 per cable system in which linear programming is moved to an SDV platform is an appropriate base forfeiture for violation of Section 76.1201. In this case, TWC moved linear programming to an SDV platform in one cable system, Oceanic Kauai Cable System. Accordingly, we conclude that TWC is liable for a $10,000 forfeiture for its willful violation of Section 76.1201 of the Rules.

37. Additionally, we conclude that TWC is liable for a forfeiture in the amount of $5,000 for its willful violation of Section 76.640(b)(1)(i) of the Rules and $5,000 for its willful violation of Section 76.640(b)(1)(v) of the Rules. The Commission's *Forfeiture Policy Statement* and Section 1.80 of the Rules do not establish a specific base forfeiture for violation of Section 76.640(b). However, we note that Section 1.80(b) establishes a base forfeiture of $5,000 for unauthorized discontinuance of service.[103] We find that the actions of TWC effectively discontinue a portion of the services for each of its CableCARD subscribers who choose to view content via a UDCP. We also conclude that the amount of the forfeiture for each violation is commensurate with the harm imposed upon cable subscribers. Because the violation of Section 76.640(b)(1) coincides with the migration of linear channels to an SDV platform, we will also

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[99] *See The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines,* Report and Order, 12 FCC Rcd 17087, 17115 (1997) ("*Forfeiture Policy Statement*"), *recon. denied*, 15 FCC Rcd 303 (1999).

[100] The Bureau has substantial discretion in proposing forfeitures. *See, e.g., InPhonic, Inc.,* Order of Forfeiture and Further Notice of Apparent Liability, 22 FCC Rcd 8689, 8699 (2007); *Globcom, Inc. d/b/a Globcom Global Commun.,* Order of Forfeiture, 21 FCC Rcd 4710, 4723-24 (2006). We may apply the base forfeiture amounts described in the *Forfeiture Policy Statement* and the Commission's rules, or we may depart from them altogether as the circumstances demand. *See* 47 C.F.R. § 1.80(b)(4) ("The Commission and its staff *may* use these guidelines in particular cases[, and] *retain the discretion* to issue a higher or lower forfeiture than provided in the guidelines, to issue no forfeiture at all, or to apply alternative or additional sanctions as permitted by the statute.") (emphasis added).

[101] *See, e.g., Cablevision Systems Corporation,* Forfeiture Order, 15 FCC Rcd 24298 (2000) ("*Cablevision Forfeiture Order*") (imposing forfeitures against Cablevision on a cable system basis). SDV is installed at separate hubs throughout the cable system, but generally the operator will implement the technology on a system-wide basis.

[102] 47 C.F.R. § 1.80(b)(4)(Note). *See also Cablevision Forfeiture Order,* 15 FCC Rcd at 24298.

[103] 47 C.F.R. § 1.80(b)(4)(Note). Violation of the broadcast signal carriage rule is also analogous to TWC's failure to provide the SDV programming information in its virtual channel table. In contrast with violations of Section 76.1201, however, violations of Section 76.640(b)(1) do not affect the viewability of actual programming. Therefore, it is appropriate to impose a somewhat lesser penalty for such technical violations.

apply this base forfeiture amount of $5,000 for each technical violation of Section 76.640(b)(1) on a per cable system basis. Accordingly, we conclude that TWC is liable for a forfeiture in the amount of $10,000 for its willful violation of Sections 76.640(b)(1)(i) and 76.640(b)(1)(v) in its Oceanic Kauai Cable System.

38. TWC's implementation of SDV in its Oceanic Kauai Cable System, in which previously available linear programming was moved to an SDV platform, resulted in the removal of channel information and the loss of access to those switched channels for its subscribers using CableCARD-equipped UDCPs. Moreover, such implementation of SDV, without having in place standards to ensure bi-directional compatibility of cable television systems and CE equipment, effectively harms the Commission's policies to move navigation devices toward a fully competitive market. We note that TWC could have sought a waiver of these rules under Section 76.1207, but failed to do so.[104] Accordingly, we conclude that TWC is liable for a total forfeiture amount of twenty thousand ($20,000) for its willful violation of Sections 76.1201 ($10,000), 76.640(b)(1)(i) ($5,000), and 76.640(b)(1)(v) ($5,000) of the Commission's Rules.

E. TWC Must Issue Refunds to Customers Harmed by its SDV Implementation

39. As we noted in the *TWC NAL and Order,* TWC's implementation of SDV has harmed its customers who opted to purchase and use television receiving equipment that does not require a cable operator-supplied set-top device to receive cable service. Many consumers purchased expensive UDCPs, such as "cable ready" televisions and digital video recorders like TiVos, based on the reasonable assumption that no set-top box would be necessary to receive linear programming.[105] In effect, TWC's movement of linear programming to an SDV platform has substantially diminished the value of its customers' UDCP devices. Moreover, CableCARD customers affected by TWC's SDV deployment now must pay higher prices to lease set-top boxes than they would have paid for CableCARDs. Those CableCARD customers who chose not to obtain the TWC-supplied set-top boxes after the implementation of SDV nevertheless have paid the same monthly rate for their cable service even though they can view significantly fewer channels. Most importantly, however, TWC's movement of linear programming to an SDV platform set back the shared goal of Congress and the Commission of a competitive market for commercially available navigation devices, as required by Section 629 and the Commission's Rules.

40. In calculating the harm to TWC's customers who use UDCP equipment, we recognize that TWC has made offers to its CableCARD customers to offset the costs of obtaining a set-top box. While TWC's offer to provide a free set-top box to its CableCARD customers may

[104] Under Section 629(c) of the Act, 47 U.S.C. § 549(c) and Section 76.1207 of the Commission's Rules, 47 C.F.R. § 76.1207, the Commission may waive rules adopted under Section 629(a) of the Act for a limited time "upon an appropriate showing by a provider of multichannel video programming and other services offered over multichannel video programming systems, or an equipment provider, that such waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. *See* 47 U.S.C. § 549(c), 47 C.F.R. § 76.1207.

[105] For instance, one complainant stated that after talking to a customer service representative who stated that the CableCARDs would allow access to HD programming on a HD-Tivo DVR, the consumer spent $300 for the HD-Tivo DVR and $300 for a Tivo Service subscription package. Three weeks later, when the technician came to install the CableCARDs, the customer could not receive the HD package because TWC no longer "offered the cable cards with HD." *See* Complaint No. 07-R522759 at Attachment A.

provide temporary relief to its customers, it is not a permanent solution – the benefits promised by TWC are, at best, limited in duration. TWC's offer does not address the critical problem concerning the company's interference with its customers' use of independently obtained UDCPs, *i.e.*, the loss of service to the extent customers can view fewer channels than they did before the movement of linear programming to an SDV platform, nor does it address the loss of functionality of the device in question.

41. In the *TWC NAL and Order*, we ordered TWC, within ninety (90) days of the *NAL and Order,* to issue refunds to CableCARD customers affected by the November 6, 2007 implementation of SDV in its Oceanic Kauai Cable System.[106] In addition, within thirty (30) days of the release of the *TWC NAL and Order,* we required TWC to submit to the Enforcement Bureau an explanation of the method the company planned to use to determine the appropriate amount of refunds, the number of customers receiving refunds, the total value of such refunds, and the planned timing of such refunds. TWC failed to comply with the Bureau's Order and the Bureau is separately addressing that violation of the Commission's Rules.

42. Thus, we order TWC, within ninety (90) days of this *Forfeiture Order,* to issue refunds to CableCARD customers affected by the November 6, 2007 implementation of SDV in its Oceanic Kauai Cable System. Specifically, TWC must provide refunds as follows:

(a) For former CableCARD customers that began to lease any set-top boxes from TWC following notice of a possible SDV deployment, TWC must refund the difference in cost (if any) between the charges for the TWC set-top boxes and the CableCARD previously leased by such customers; and

(b) For CableCARD customers that kept their CableCARDs even after notice of the SDV deployment, TWC must refund the customers' subscriber fees based on the diminished value of their service following the movement of linear programming to an SDV platform by $0.10 per month, per channel moved and reduce their rates on a going-forward basis accordingly.[107]

IV. ORDERING CLAUSES

43. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, Section 1.80 of the Rules, and the authority delegated by Sections 0.111 and 0.311 of the Commission's Rules, Oceanic Time Warner Cable, a division of Time Warner Cable, Inc., Oceanic Kauai Cable System **IS LIABLE FOR A FORFEITURE** in the amount of twenty thousand dollars ($20,000) for willful violation of Sections 76.1201, 76.640(b)(1)(i) and 76.640(b)(1)(v) of the Rules.

[106] *TWC NAL and Order* at 39.

[107] $0.10 is our best estimate of the relevant license fee per channel. We note that TWC did not provide an explanation of the method the company planned to use to determine the appropriate amount of refunds as required by the *TWC NAL and Order*. The Bureau will reconsider the appropriate license fee per channel should TWC submit a petition for reconsideration that includes evidence that the license fees of the affected channels are lower than $0.10 per month.

44. **IT IS FURTHER ORDERED** that, pursuant to sections 1, 4(i), 4(j), 601, and 629 of the Communications Act of 1934, as amended 47 U.S.C. §151, 154(i), 154(j), 521, 549, Time Warner Cable, Inc. must take the steps set forth in paragraph 42 of this *Forfeiture Order*.

45. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission within thirty (30) days of the release of this Order. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. TWC will also send electronic notification on the date said payment is made to JoAnn.Lucanik@fcc.gov and Kevin.Pittman@fcc.gov.

46. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture and Order shall be sent by first class mail and certified mail return receipt requested to counsel for Time Warner, Inc.: Arthur H. Harding, Esq., Fleischman and Harding LLP, 1255 23rd Street, N.W., Eighth Floor, Washington, D.C. 20037 and Matthew A. Brill, Esq., Latham & Watkins LLP, 555 Eleventh Street, N.W., Suite 1000, Washington, D.C. 20004-1304.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	File Number EB-07-SE-352
	)	
Oceanic Time Warner Cable, a division of Time Warner Cable, Inc. Oceanic Oahu Central Cable System	)))	NAL/Acct. No. 200932100003 FRN 0018049841

FORFEITURE ORDER

Adopted: January 19, 2009 **Released: January 19, 2009**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order*, we find that Oceanic Time Warner Cable, a division of Time Warner Cable, Inc., Oceanic Oaha Central Cable System (collectively, "TWC"), willfully and repeatedly violated Section 76.1201 of the Commission's Rules ("Rules") in its Oceanic Oahu Central Cable System.[1] Specifically, TWC violated Section 76.1201 by moving certain channels to a Switched Digital Video ("SDV") platform on November 6, 2007, thereby preventing subscribers with CableCARD-equipped unidirectional digital cable products ("UDCPs") from using their navigation devices to access these channels.[2] Further, in its deployment of SDV on November 6, 2007, TWC violated Section 76.640(b)(1) by failing to provide a virtual channel table which conforms to the standards required under Sections 76.640(b)(1)(i) and 76.640(b)(1)(v). We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),[3] that TWC is liable for a forfeiture in the amount of twenty thousand dollars ($20,000). As discussed below, we further direct TWC to comply with the Bureau's Order to make appropriate refund of fees charged to customers affected by TWC's movement of linear channels to the SDV platform on November 6, 2007.[4]

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[1] 47 C.F.R. § 76.1201.

[2] Navigation devices refer to "converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems." 47 C.F.R. § 76.1200(c). UDCPs refer to devices that have the ability to receive encrypted digital cable programming, but do not have any upstream, or bidirectional, capabilities. For example, such devices cannot support two-way services such as Electronic Programming Guides (EPGs), Voice on Demand (VOD), Pay Per View (PPV), and other interactive capabilities. *See Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, Compatibility Between Cable Systems and Consumer Electronics Equipment*, Third Further Notice of Proposed Rulemaking, 22 FCC Rcd 12024, 12025-26 (2007) ("*Third Further Notice of Proposed Rulemaking*"). *See also* 47 C.F.R. § 15.123(a).

[3] 47 U.S.C. § 503(b). This *Forfeiture Order* is issued through the coordinated effort of the Commission's Enforcement Bureau and Media Bureau. *See* 47 C.F.R. §§ 0.61(f)(5), 0.111(15).

[4] TWC's notice to its customers, as well as technical papers submitted by the company to the Bureau, support our (continued....)

II. BACKGROUND

2. Congress and the Commission have long recognized the importance of allowing consumers the freedom to purchase their own navigation devices from sources other than their cable operator, satellite provider, or other multichannel video programming distributor ("MVPD"). Thus, Congress adopted Section 629 of the Act,[5] which requires the Commission to ensure the commercial availability of navigation devices. By separating the security and navigation functions of equipment used to receive MVPD programming, Congress hoped to spur competition and expand consumer choice. As the House Report accompanying Section 629 noted, "competition in the manufacturing and distribution of consumer devices has always led to innovation, lower prices and higher quality. Clearly, consumers will benefit from having more choices among telecommunications subscription services available through various distribution sources."[6] At the same time, Congress recognized that MVPDs have "a valid interest, which the Commission should continue to protect, in system or signal security and in preventing theft of service."[7]

3. In its order proposing rules implementing Section 629, the Commission stated that its overarching goal was to assure competition in the availability of set-top boxes and other customer premises equipment.[8] "As navigation devices are the means to deliver analog and digital communications, competition in the navigation equipment market is central toward encouraging innovation in equipment and services, and toward bringing more choice to a broader range of consumers at better prices."[9]

4. Thus, in adopting Section 76.1201 of the Commission's Rules,[10] which allows subscribers to acquire, attach, and use any compatible navigation device with an MVPD's system, subject to the proviso that such equipment not cause harmful interference or facilitate theft of service, the Commission likened its actions to the *Carterfone* principle it previously adopted in the telephone environment.[11] In *Carterfone,* the Commission allowed consumers to attach legal devices to the telephone network unless that equipment would damage the network. "As a result of *Carterfone* and other Commission actions, ownership of telephones moved from the network operator to the consumer. As a result, the choice of features and functions incorporated into a telephone has increased substantially, while the cost of equipment has

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characterization of TWC's actions as "moving" or "migrating" linear programming to a SDV platform.

[5] 47 U.S.C. § 549. Section 629 was adopted as part of the Telecommunications Act of 1996. Pub. L. No. 104-104, 110 Stat. 56 (1996).

[6] H.R. REP. NO. 104-204, at 112 (1995).

[7] *Id.*

[8] *Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Devices,* Notice of Proposed Rulemaking, 12 FCC Rcd 5639, 5641 (1997).

[9] *See Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices,* Report and Order, 13 FCC Rcd 14775, 14776, para. 2 (1998) ("*Navigation Devices Order*").

[10] 47 C.F.R. § 76.1201.

[11] *See Navigation Devices Order*, 13 FCC Rcd at 14478 (citing *Use of the Carterfone Device in Message Toll Service,* Decision, 13 FCC 2d 420, 424-25 (1968), *recon. denied*, 14 FCC 2d 571(1968)).

decreased."[12] The Commission emphasized that "[f]ollowing the *Carterfone* principle adopted in the telephone context would allow subscribers the option of owning their own navigation devices and would facilitate the commercial availability of equipment."[13] The Commission stated that "[t]he steps taken in this Report and Order, if implemented promptly and in good faith, should result in an evolution of the market for navigation devices so that they become generally and competitively available."[14]

5. The Commission recognized that its work on these issues was not complete and reiterated its commitment to monitoring developments regarding the compatibility of set-top boxes and digital televisions.[15] Five years later, in the *Plug and Play Order*,[16] the Commission took further steps to facilitate the direct connection of digital navigation devices (including commercially available UDCPs) to MVPD systems. Specifically, the Commission considered standards agreed upon by the cable and consumer electronics ("CE") industries[17] and adopted a cable compatibility standard for integrated, unidirectional digital cable television receivers, as well as other UDCPs, to ensure the compatibility and commercial availability of UDCPs with cable television systems.

6. Generally, the *Plug and Play Order* required MVPDs to support operation of UDCPs and ensure the utilization of such navigation devices in connection with their cable systems. In addition, the Commission required MVPDs to make available a security element separate from the basic navigation device. Under this framework, the Commission sought to enable unaffiliated manufacturers, retailers, and other vendors to commercially market UDCPs while allowing MVPDs to retail control over their system security.

7. Consumers with UDCPs access MVPD programming by using a CableCARD leased from the cable operator.[18] UDCPs, and certain related CE equipment, employ a standard

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[12] *Navigation Devices Order Id.* at 14780, para. 11.

[13] *Id.* at 14786.

[14] *Id.* The Commission recognized that "the parallel to the telephone has limitations" and specifically stated that the rules it adopted in implementing Section 629 of the Act sought to accommodate the differences from the telephone model.

[15] *Id.* at 14781.

[16] *Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, Compatibility Between Cable Systems and Consumer Electronics Equipment*, Second Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 20885 (2003) ("*Plug and Play Order*"). "The term 'plug and play' refers to a device's ability to plug into a cable system and receive digital cable programming without a cable-operator provided set-top box." *Third Further Notice of Proposed Rulemaking*, 22 FCC Rcd at n.9.

[17] *See December 2002 Memorandum of Understanding Among Cable MSOs and Consumer Electronics Manufacturers. Id.* at note 3 (citing Letter from Carl E. Vogel, President and CEO, Charter Communications, *et al.*, to Michael K. Powell, Chairman, FCC (Dec. 19, 2002) ("2002 MOU")). The MOU "reflects a compromise agreement among the parties [cable and consumer electronics industries] on a specification that will permit the manufacture of unidirectional cable television receivers that include [the same] ... navigation functionality [that currently exists for set-top boxes]."

[18] In most cases, the MVPDs have employed CableCARDs as their separate-security solution to enable non-integrated conditional access. *But see Cablevision Systems Corporation's Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, Memorandum Opinion and Order, 22 FCC Rcd 220, 221-222 (2007). The Commission granted Cablevision a waiver of the ban on cable operator deployment of set-top boxes with integrated security to allow Cablevision to use a Smart-Card-based separate-security solution, which is CableCARD-

(continued....)

interface that permits them to negotiate with the CableCARD. The CableCARD descrambles the MVPD's encoded digital signal and allows the subscriber to view the programming. Thus, commercially available UDCPs can be compatible with cable systems nationwide, while cable operators maintain their ability to secure programming content from unauthorized viewing. In theory, this arrangement allows consumers access to all of a cable operator's linear programming[19] without the need of a separate set-top box leased from their cable operator, while protecting the cable operator from theft of its programming services.[20]

8. But recent events have demonstrated the limits of this theory. Traditionally, cable systems have used broadcast-type technologies that deliver all programs to all subscribers whether the subscribers view the programs or not. The programs not viewed nonetheless occupy system bandwidth (which prevents the use of that bandwidth for any other purpose). Many cable operators, however, have begun to test and deploy SDV technology in their cable systems. In an SDV system, a subset of programming is delivered in the traditional way to all subscribers whether they are viewing the programs or not. For those channels, the CableCARD-equipped UDCP will work as described above, allowing the subscriber to view the channels delivered in the traditional broadcast manner. The remaining channels are switched through the use of SDV network equipment located at a "hub" (where signals are converted and placed onto the "last mile" coaxial portion of the network). These switched channels do not occupy bandwidth, and are not available to subscribers until a subscriber tunes to that channel by sending a request, using a remote or program guide, upstream through the use of a set-top box to the hub. At the hub, the SDV equipment directly receives and processes set-top channel change requests for switched content and responds to that set-top with the frequency and program number where that content can be found. Once the hub receives the request, it immediately begins to transmit the channel. A customer who uses a CableCARD-equipped UDCP to receive programming must have additional equipment with the necessary upstream signaling capability to obtain the switched (i.e., bi-directional) channels. The UDCP cannot perform the bi-directional functions necessary to request that a channel be delivered via SDV. Nor can the CableCARD, which is designed only to provide the separate security element, provide the necessary interface needed to send the signal to the SDV server. Thus, in essence, in an SDV system, all subscribers must have a cable-operator supplied set-top box to view channels placed on the SDV platform.

9. On November 8, 2007, the Spectrum Enforcement Division of the Enforcement Bureau ("Bureau") issued a Letter of Inquiry ("LOI")[21] to TWC based on complaints that the company had moved certain cable channels that previously had been accessible to subscribers using CableCARD-equipped UDCPs, such as digital cable ready television sets and digital video recorders, to an SDV platform. Specifically, one complainant alleged that Oceanic had deployed SDV and moved a large number of channels to an SDV platform, including popular high

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compatible with the use of an adaptor.

[19] The term "linear programming" is generally understood to refer to video programming that is prescheduled by the programming provider. *Cf.* 47 U.S.C. § 522(12) (defining "interactive on-demand services" to exclude "services providing video programming prescheduled by the programming provider").

[20] *Third Further Notice of Proposed Rulemaking,* 22 FCC Rcd at 12025 ¶¶3-4.

[21] *See* Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission to Mark Lawrence-Apfelbaum, Esq., Executive Vice President and General Counsel, Time Warner Cable, Inc. (Nov. 8, 2007) ("LOI").

definition ("HD") sports and entertainment channels.[22] According to the complaints, Oceanic's implementation of SDV necessarily required customers using a CableCARD to obtain additional equipment, *i.e.*, a set-top box, from the cable company to continue to receive all cable channels available to them prior to the change to the SDV platform.[23] The LOI sought information on a number of issues, and asked the company to explain how its implementation of SDV was consistent with Section 629 of the Act, Commission rules implementing that statute,[24] the 2002 MOU,[25] and in particular, the policies and rules established by Commission in the *Plug and Play Order*[26] The Bureau issued a Supplemental LOI to TWC on August 25, 2008 to obtain additional information concerning the company's deployment of SDV.[27]

10. TWC responded to the LOI on November 30, 2007,[28] and responded in part to the Supplemental LOI on September 12, 2008[29] and in full on September 23, 2008.[30] In its response, TWC admits that its Oceanic and Oahu Central cable systems deployed SDV for customers on the islands of Oahu and Oahu Central on November 6, 2007, moving 62 linear channels to an SDV platform.[31] TWC reports that its Hawaii Division, which includes the cable systems at

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[22] *See* Letter from Robert A. Flatt to Kevin J. Martin, Chairman, Federal Communications Commission dated Nov. 7, 2007 (available as a comment in CS Docket No. 97-08) ("*Flatt Complaint*"). According to the August 21, 2007 notice that TWC sent to its Hawaii subscribers, Oceanic planned to move certain channels to a two-way switched digital platform on September 24, 2007. TWC ultimately delayed its deployment of SDV until November 6, 2007. *See* Letter from Arthur H. Harding, Fleischman and Harding LLP and Matthew A. Brill, Latham & Watkins LLP, counsel for TWC, dated September 12, 2008 ("Initial Supplemental LOI Response") at Exhibit A.

[23] *Id.* at 1. In addition to the *Flatt Complaint*, the Commission has received several other complaints from TWC customers about Oceanic's SDV deployment. We provided relevant excerpts and identifying information for those complaints in Attachment A to the *Oceanic Time Warner Cable, a subsidiary of Time Warner Cable, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 14981 (Enf. Bur. 2008) (*"TWC NAL and Order")*. Unlike the *Flatt Complaint*, these complaints were not filed in a public Commission docket, so we will treat the complainants' names as confidential for privacy reasons.

[24] The LOI stated we were investigating possible violations of Section 629 of the Act, 47 U.S.C. § 549, and Sections 76.640, 76.980(f), 76.984, 76.1204, 76.1206, and 76.1603 of the Commission's rules, 47 C.F.R. §§ 76.640, 76.980(f), 76.984, 76.1204, 76.1206, and 76.1603.

[25] *See Plug and Play Order*, 18 FCC Rcd at 20885 n.3.

[26] *Id.* at 20885.

[27] *See* Letter from JoAnn Lucanik, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission to Arthur H. Harding, Fleischman and Harding LLP and Matthew A. Brill, Latham & Watkins LLP, counsel for TWC, (Aug. 25, 2008) ("Supplemental LOI"). The Supplemental LOI noted that the investigation now included possible violations by TWC of Sections 76.1201 and 76.1202 of the Rules. 47 C.F.R. §§ 76.1201, 76.1202. *Id.*, at note 3.

[28] *See* Letter from Arthur H. Harding, Fleischman and Harding LLP and Matthew A. Brill, Latham & Watkins LLP, Counsel for Time Warner Cable, to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (Nov. 30, 2007) ("LOI Response").

[29] *See* Letter from Arthur H. Harding, Fleischman and Harding LLP and Matthew A. Brill, Latham & Watkins LLP, Counsel for Time Warner Cable, to Marlene H. Dortch, Secretary, Federal Communications Commission (Sept. 12, 2008) ("Initial Supplemental LOI Response").

[30] *See* Letter from Arthur H. Harding, Fleischman and Harding LLP and Matthew A. Brill, Latham & Watkins LLP, Counsel for Time Warner Cable, to Marlene H. Dortch, Secretary, Federal Communications Commission (Sept. 23, 2008) ("Final Supplemental LOI Response").

[31] Initial Supplemental LOI Response, Exhibit A.

issue here, had 415,534 subscribers at the time of SDV deployment.[32] The company does not have a precise estimate of the number of CableCARD-using UDCPs affected by its SDV deployment, but believes it to be less than 583.[33] For CableCARD customers affected by its SDV deployment, TWC offered set-top boxes at the same price as the customers' CableCARDs for two years from the date of SDV deployment.[34] TWC states that it had planned to deploy SDV on several other Hawaiian islands, but has deferred that action until it has provided 30 days notice to the relevant Local Franchising Authority ("LFA").[35]

11. On October 14, 2008, after reviewing the evidence and TWC's arguments, the Bureau issued a *Notice of Apparent Liability for Forfeiture and Order,*[36] finding that TWC apparently had willfully violated Sections 76.1201 and 76.640(b)(1) of the Rules by moving certain channels to a SDV platform on November 6, 2007, thereby preventing subscribers with CableCARD-equipped UDCPs from using their navigation devices to access these channels and by failing to provide a virtual channel table which conforms to the standards required under Sections 76.640(b)(1)(i) and 76.640.(b)(1)(v).

12. TWC responded to the NAL on November 14, 2008.[37] With respect to the NAL's finding of apparent liability under Section 76.1201, TWC makes three principal arguments. First, TWC asserts that the NAL's finding of apparent liability violates the plain meaning of the rule. According to TWC, the language "prevent the connection or use" of a navigation device means that a cable operator can be held liable only where it has made it impossible for a customer to connect or use the device.[38] Second, TWC asserts that the NAL's "overly expansive reading" of the rule violates important public policy objectives.[39] Third, TWC argues that the NAL intrudes upon its First Amendment rights.[40] TWC similarly asserts that the Bureau's finding that TWC apparently violated Section 76.640 is flawed.[41] Finally, TWC asserts that the

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[32] *Id.*

[33] TWC reported 583 UDCP CableCARD subscribers at the time of deployment for its entire Hawaii Division, which includes not only the Oceanic and Oahu Central cable system, but also several other systems. Although some subscribers may have more than one UDCP, this number probably overstates the number of affected devices. *Id.*

[34] *Id.*

[35] In its most recent offer, TWC limited the period for affected CableCARD customers to receive a free set-top box to six months. *Id.*

[36] *Oceanic Time Warner Cable, a subsidiary of Time Warner Cable, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 14981 (Enf. Bur. Oct. 15, 2008) (*"TWC NAL and Order"*).

[37] *Time Warner Cable Inc. Response to Notices of Apparent Liability and Request for Cancellation of Proposed Forfeitures*, File No. EB-07-SE-352 (filed Nov. 14, 2008) (TWC NAL Response). Together with its NAL Response, TWC also filed *Time Warner Cable Inc. Request for Stay Pending Resolution of Petition for Reconsideration and Request for Cancellation of Proposed Forfeitures,* EB-07-SE-352 (filed Nov. 14, 2008) and *Petition for Reconsideration of Time Warner Cable Inc.*, EB-07-SE-352 (filed Nov. 14, 2008). TWC's *Request for Stay* and *Petition for Reconsideration* will be addressed in subsequent orders.

[38] *TWC NAL Response* at 15-20.

[39] *Id.* at 20-28.

[40] *Id.* at 32-37.

[41] *Id.* at 37-42.

NAL findings present novel interpretations of the rules at issue and thereby exceed the bounds of the Bureau's delegated authority.[42]

III. DISCUSSION

A. TWC Willfully and Repeatedly Violated Section 76.1201 By Requiring Subscribers To Obtain A Set-Top Box To View Previously Accessible Linear Programming

13. Section 76.1201 of the Rules prohibits an MVPD from "prevent[ing] the connection or use of navigation devices to or with its system" unless such devices would cause electronic or physical harm or allow the unauthorized receipt of service.[43] Based on the record before us, we find that TWC willfully and repeatedly[44] violated Section 76.1201 by moving certain linear channels to an SDV platform in its Oahu Central and Oceanic cable systems[45] on November 6, 2007.[46] In so doing, TWC prevented subscribers with UDCPs, such as "digital cable ready" televisions and TiVo recorders, from viewing the switched linear channels that were already part of their subscription package without the use of a TWC-supplied set-top box, thus effectively impairing the use of those UDCPs within each affected cable system. Additionally, because a TWC-leased set-top box now is required to view many TWC channels, even on UDCP devices, TWC's migration of channels to an SDV platform has prevented the use of some functions available on those UDCPs, such as the capacity to view picture-in-picture and record content.[47]

1. The NAL's Findings Are Not Foreclosed by the Plain Language of Section76.1201

14. Notwithstanding its effect on CableCARD users, TWC contends that the language "prevent the connection or use of navigation devices," as used in Section 76.1201, makes clear that a cable operator can be held liable only where it has stopped or made it impossible for a customer to connect or use the device.[48] According to TWC, its implementation of SDV does not *stop* a subscriber from doing so or "make[it] impossible" for a customer to do so.[49] TWC

[42] *Id.* at 43.

[43] 47 C.F.R. § 76.1201.

[44] *See* 47 U.S.C. § 312(f)(1) & (2) (defining a "willful" violation as the "conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission," and defining "repeated" as "the commission or omission of such act more than once."). The definition of willful and the definition of repeated apply to violations for which forfeitures are assessed under Section 503(b) of the Act. *See Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387 (1991), *recon. denied* 7 FCC Rcd 3454 (1992).

[45] As noted earlier, TWC states that its Oceanic and Oahu Central cable systems deployed SDV for the islands of Oahu and Oahu Central. Initial Supplemental LOI Response, Exhibit A.

[46] We are aware that other TWC cable systems have implemented SDV and will address the legality of those actions in future proceedings.

[47] As enacted, Section 624A of the Act expressly mandates that the Commission "minimize interference with or nullification of the special functions of subscriber's television receivers or video cassette recorders," and thus ensure the full compatibility of these devices with the cable system. 47 U.S.C. § 544a(c)(1)(B).

[48] *TWC NAL Response* at 15.

[49] *Id.*

asserts that the Bureau found only that the company's implementation of SDV "impairs," rather than prevents, the use of such devices and thus the Bureau's finding is insufficient for purposes of finding a violation of the standard set forth in the rule.[50]

15. We do not agree that a violation of Section 76.1201 occurs only where a cable operator "stops" or "makes it impossible" for a customer to connect or use a navigation device. At its core, TWC would have us find that unless a cable operator prevents access to each and every program and service that constitutes the customer's subscribed programming tier, no violation of Section 76.1201 has occurred. Under TWC's interpretation of Section 76.1201, a cable operator may prevent (non-cable operator-supplied) UDCPs from accessing any portion of a programming service (or transport stream) — such as closed captioning or content advisory information — or may prevent these devices from accessing any linear video programming— such as select channels within a subscriber's purchased programming tier — and nonetheless act consistently with the Commission's mandate to support CableCARD-equipped devices. As we stated in the *TWC NAL and Order,* taken to its logical conclusion, TWC's reasoning would permit an MVPD to move *all* of its programming to an SDV platform without regard for the impact its actions would have on customers using or wishing to use CableCARD-equipped UDCPs. TWC's interpretation would eviscerate the rule, is inconsistent with the operative text of Section 76.1201– "use of navigation devices," and the Commission's goal to ensure commercial compatibility of such devices. Considering that the primary objective of Section 629 of the Act and Sections 76.1200-76.1210 of the Rules is to maximize the commercial availability of navigation devices, we decline to adopt a view of our Rule that ignores the plain text and the purpose of these sections.[51]

16. Moreover, TWC's strained interpretation of the Rule would be fundamentally at odds with the Commission's goal of protecting cable subscribers' ability to view signals through the use of commercially available navigation devices offered in a competitive market. TWC's movement of linear channels that were previously accessible with a CableCARD-equipped UDCP to a switched digital platform that can only be accessed with a TWC-provided set-top box conflicts with the Commission's rules and policies designed to promote competition and consumer choice of navigation devices. Our conclusion is not affected by the fact that customers can still attach and use navigation devices to receive cable services, and that customers may access switched digital programming by obtaining a set top box from TWC. In the *Plug and Play Order,* the Commission sought to enable *unaffiliated* manufacturers, retailers, and other vendors to compete with MVPD-provided equipment by facilitating the direct connection of digital navigation devices to MVPD systems.

17. TWC further argues that the rule was historically intended to do no more than provide a right to attach commercially available equipment and does not include an obligation that an operator carry any service used by such equipment.[52] We concur that in adopting this rule, the Commission agreed that the 'right to attach' must be subject to the limitation that the equipment does not harm the MVPD network.[53] Thus, the Commission adopted rules that would

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[50] *Id.*

[51] *See Thomas Jefferson University v. Shalala*, 512 U.S. 504 (1994) (agency's interpretation of its own rule must be given controlling weight unless clearly erroneous).

[52] *TWC Response at 15-16.*

[53] *See Navigation Devices Order*, 13 FCC Rcd at 14789.

permit MVPDs to restrict the attachment or use of equipment to their systems where electronic or physical harm would be caused by the attachment or operation of such equipment.[54] The Commission was clear however, that "[t]hese standards [set forth in Section 76.1203] shall be used only to prevent attachment of navigation devices that raise reasonable and legitimate concerns of electronic or physical harm or theft of service, and *not as a means to unreasonably restrict the use of navigation devices obtained from a source other than the MVPD*."[55] The Commission was equally clear that it expected the cable industry to dedicate the resources necessary to ensure that commercially available CableCARD-enabled devices continue to interoperate properly with cable systems.[56] The equipment at issue does not raise concerns of electronic or physical harm or theft of service.

18. Finally, we disagree with TWC's claims that there is no record support for the allegation that as a result of the deployment of SDV, UDCPs lose certain functions, such as picture-in-picture, and that the NAL does not take the balanced approach to equipment compatibility that is required by Section 624A.[57] Section 624A of the Act expressly mandates that the Commission "minimize interference with or nullification of the special functions of subscriber's television receivers or video cassette recorders,"[58] and thus ensures the full compatibility of these devices with the cable system. The deployment of SDV and the requirement that a customer use a company-supplied set top box to view the now switched channels, negates whatever functionalities were available in the UDCP for those of the company-supplied set-top box. The Commission received numerous complaints from affected consumers. For instance, some cable operators have migrated linear HD programming to an SDV format, thus rendering useless the high definition capability of the navigation device. In addition, many complaints from consumers indicate that SDV deployment has affected their use of TiVo. One of TiVo's main features is the ability to watch one program while recording another (*i.e.*, TiVo Series 3 was designed with two CableCARD slots – one single-stream CableCARD ("S-Card") to decrypt the programming that the TiVo is recording, and another S-card to decrypt the programming that the TiVo is displaying). The functionality of TiVo is lost with the use of the company-supplied set-top box, which has its own built-in functionality.

2. The NAL's Findings Are Fully Consistent with the Public Policy Underlying the Commission's Rules and Orders on *"Plug and Play"*

19. TWC next argues that its manner of implementing SDV is not inconsistent with the *Plug and Play Order*.[59] Specifically, it contends that the interactive or advanced two-way capabilities envisioned by that order are not limited to video on demand (VOD), electronic programming guides (EPG), and impulse pay per view (IPPV); are essentially without limit; and thus include SDV within its auspices.[60] TWC impliedly states that it may move all of its programming to an SDV format because *Plug and Play* provided for this eventuality by mandating DVI/HDMI connections, which allow for connection of UDCPs with two-way

[54] 47 § C.F.R. 76.1203.

[55] *Id.* (emphasis added).

[56] *But see 2005 Deferral Order*, 20 FCC Rcd at 6814.

[57] *TWC Response* at 17-20.

[58] 47 U.S.C. § 544a(c)(1)(B).

[59] *TWC Response* at 21.

[60] *Id.* at 22.

navigation devices. According to TWC, such an action is also supported by Rules that permit cable operators to move any programming for any reason -- no law provides subscribers with an entitlement to receive any particular service.[61]

20. The Bureau previously considered, and rejected, the arguments raised by TWC. As we have previously found, TWC's arguments are inconsistent with the language and the intent of the Commission's Rules and orders.[62] We do not believe that, in adopting the *Plug and Play Order*, the Commission intended to permit an MVPD move *all* of its programming to an SDV platform "without regard" for the impact such a move would have on its UDCP-owning customers. Such an outcome would be fundamentally inconsistent with the Commission's goal of protecting cable subscribers' ability to view signals through the use of commercially available navigation devices offered in a competitive market. TWC's movement of linear channels that were previously accessible with a CableCARD-equipped UDCP to a switched digital platform that can only be accessed with a TWC-provided set-top box is clearly at odds with the Commission's Rules and policies designed to promote competition and consumer choice of navigation devices.

21. While we recognize that the *Plug and Play Order* does not prohibit cable operators from developing and deploying new technology and services, we conclude that it does not permit TWC's actions here. By moving linear programming to an SDV platform, TWC prevents CableCARD-equipped UDCPs from receiving previously available channels and negates the usefulness of competitive commercially available navigation devices, in violation of the intent of Section 629 and the Commission's Rules.[63] The Commission recognized that devices made pursuant to the standard adopted in the *Plug and Play Order* lacked upstream or bi-directional capabilities and therefore could not receive certain programming or services, but that recognition did not extend to services that consumers traditionally experienced as one-way services.[64] At no point did the Commission authorize MVPDs to modify their transmission of linear programming such that UDCP devices could no longer receive such programming without a cable operator-provided set-top box.[65] Such an outcome is fundamentally at odds with the policy and regulatory objectives of the *Plug and Play Order*.

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[61] *Id.* at 23-25.

[62] *See Oceanic Oahu Central NAL*, 23 FCC Rcd at 14987. TWC also argues that "curtailing TWC's ability to deliver its programming of choice based on its selection of the most efficient technology available would likely run afoul of the First Amendment." *See Oct. 14 Supplemental LOI Response* at 5 (citation omitted). We reject this argument. The requirements at issue are content neutral and are narrowly tailored to further the substantial federal interest of maximizing commercial availability of navigation devices to the consumer. *See Turner Broadcasting System, Inc. v. FCC,* 512 U.S. 622, 662 (1994).

[63] *See* 47 U.S.C. § 549; 47 C.F.R. § 76.1201.

[64] "Due to the unidirectional nature of this receiver specification, an external navigation device would still be needed to receive advanced features such as cable operator-enhanced electronic programming guides ('EPGs'), impulse pay per view ('IPPV') or video on demand ('VOD')." *Plug and Play Order,* 18 FCC Rcd at 20890, ¶7. *See also Third Further Notice of Proposed Rulemaking,* 22 FCC Rcd at 12025-26, ¶ 4 ("Devices made pursuant to this standard have the ability to receive encrypted digital cable programming, but do not have any upstream, or bidirectional, capabilities (*i.e.*, consumer electronics manufacturers can only make unidirectional devices under the technical standard adopted in the *Plug and Play Order*). For example, such devices cannot support two-way services such as EPGs, VOD, PPV, and other ITV [Interactive Television] capabilities.").

[65] TWC's LOI Response cites an ex parte letter it filed in the *Plug and Play* docket in 2006. In that letter, TWC states that it informed staff from the Commission's Media Bureau "that SDV would impact some subscribers using [UDCPs], but noted that *these subscribers would continue to receive nearly all the same channels as subscribers using digital set top boxes.* Contrary to the suggestions of the Consumer Electronics Association in its March 23,

(continued....)

22. Section 76.1201 was adopted to achieve the statutory requirement of alternative sources of navigation devices and to ensure the commercial availability of navigation devices.[66] The *Plug and Play Order* sought to provide further assurance of the commercial availability of navigation devices by requiring that cable operators support the operation of UDCP in connection with their cable systems. TWC's implementation of SDV in this case clearly negates the use of CableCARD-equipped UDCPs and fundamentally limits the commercial and competitive viability of those devices in cable systems where SDV has been deployed. In the instant case, customers who used CableCARD-equipped UDCPs are unable to receive dozens of linear channels after the deployment of SDV.[67] As such, TWC is effectively preventing CableCARD-equipped UDCPs from receiving channels previously available and undermining the underlying policy goals of the Act and the Commission's Rules to ensure the commercial availability and use of navigation devices. Thus, we find TWC's November 6, 2007 migration of linear channels to an SDV platform in its Oceanic Oahu Central Cable System constitutes a willful and repeated violation of Section 76.1201 of the Rules.

23. TWC again reasserts that it cannot achieve the efficiencies enabled by SDV without moving linear channels.[68] According to TWC, a finding of liability as a consequence for such migration would undermine "vital public policy interests," such as additional HD programming and other digital content for all customers.[69] TWC also asserts that a restriction on SDV would harm the Commission's own policy objectives, such as the digital transition, increased programming diversity, MVPD competition, and enhanced broadband capabilities.[70]

24. As we stated in the *TWC NAL and Order*, we do not dispute that the deployment of SDV technology may provide significant public benefits. It is not TWC's deployment of SDV technology that violates Section 76.1201, but TWC's migration of existing linear programming to an SDV tier that we find inconsistent with Commission Rules. As we noted in the *TWC NAL and Order*, charging for channels not presently accessible to subscribers with CableCARD-equipped UDCPs undermines the policy and regulatory objectives of the *Plug and Play Order*.

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2006 *ex parte*, the use of SDV by TWC in no way contravenes our support of UDCPs." Letter from Steven N. Teplitz, Time Warner Cable, Inc. to Marlene Dortch, Secretary, Federal Communications Commission dated May 11, 2006 (filed in CS Docket 97-80) ("*TWC Ex Parte Letter*") (emphasis added). As the facts of this case demonstrate, TWC's removal of more than 60 channels, including popular HD channels, is inconsistent with the company's ex parte letter more than a year beforehand.

[66] *See Navigation Devices Order*, 13 FCC Rcd at 14786.

[67] According to the TWC notice announcing the deployment that ultimately took place on November 6, 2007, more than 40 channels would be moved to the SDV platform and no longer available without the use of a TWC-supplied set-top box: Digital Cable Service: (CSPAN-3, CSPAN-2, CNBC World, Bloomberg TV, The Weather Channel, AZN TV, Imaginasian, The Outdoor Channel, Country Music TV, VH1 Classic, BET On Jazz, Ovation), Sports Pak: (Fuel, NBA TV, The Tennis Channel, Fox College Sports-Atlantic, Fox College Sports-Central, Fox College Sports-Pacific, College Sports TV), Encore Service: (Fuse), Spanish Pak: (Galavision, Fox Sports World Espanol, CNN Espanol, Discovery en Espanol, CNN Espanol, ESPN Deportes), Premium: (Chinese Channel), HD Entertainment Pak: (HD Golf/HD Versus, HD Versus & Golf, HD Fsn, HD National Geographic, HD Net, HD Net Movies, iNDemand HD, ESPN HD, ESPN2HD, HD Universal), Jewelry Channel, Pentagon Channel, KOAM, Ocean Network, and Inspirational TV. *See also* TWC Initial Supplemental LOI Response, Exhibit A (stating that 62 channels ultimately were moved to SDV platform).

[68] *TWC Response* at 28-32.

[69] *Id.* at 30.

[70] *Id.* at 31-32.

Moreover, we are not convinced that the only way TWC can create additional capacity using SDV is to move existing linear programming to an SDV platform. Regardless of the benefits touted, the manner in which TWC has migrated linear channels prevents certain UDCP customers the use and functionality of their navigation devices.[71]

3. The NAL's Reading of Section 76.1201 Does Not Conflict with the First Amendment

25. TWC's arguments that the NAL runs afoul of the First Amendment are insubstantial. As an initial matter, TWC's contention that the NAL renders the Commission's *Viewability Order* unconstitutional lacks any merit.[72] In the *Viewability Order*, the Commission set forth a comprehensive analysis of why the requirement that all cable subscribers be able to view the signals of all must-carry stations after the digital transition was consistent with the First Amendment,[73] and the U.S. Court of Appeals for the District of Columbia Circuit recently dismissed a constitutional challenge to the *Viewability Order*.[74] The analysis contained in the *Viewability Order* in no way depended on the use of SDV under the circumstances present here, and the interpretation of our Rules set forth in the NAL neither alters the Commission's expectation that "cable capacity will continue to expand in future years, thus further decreasing the relative burden on cable operators" nor its observation that "because digital cable systems offer so much more capacity, the proportion of overall bandwidth devoted to must-carry signals is that much smaller than was the case at the time of the [U.S. Supreme Court decisions upholding the constitutionality of must-carry regulation]."[75]

26. Neither is there any merit to TWC's contention that the NAL violates the First Amendment by "impermissibly curtail[ing] TWC's editorial discretion to deliver programming of its choice using the most efficient technology available to it."[76] Simply put, TWC has no First Amendment right to undermine the development of a competitive market for navigation devices by preventing consumers from accessing linear programming in their existing programming packages with a CableCARD-equipped UDCP and instead requiring the consumer to obtain a TWC-provided set-top box. To the extent that the rules at issue here implicate the First Amendment at all, the requirements are content neutral and narrowly tailored to further the substantial federal interest in developing and maintaining a competitive market for navigation devices, an interest whose importance has been recognized by both Congress and the courts.[77] Finally, while TWC complains that the First Amendment is implicated by the treatment of other

[71] We note TWC's claim that bi-directional navigation devices "are now becoming available at retail." *TWC Response* at 26. The development of bi-directional navigation devices without limitations on the ability to integrate broadband capability into competitive navigation devices and the ability to integrate web-based or IP content with cable-providing programming will further Congress and the Commission's shared policy goal of expeditious commercial availability of bi-directional navigation devices.

[72] See *Carriage of Digital Television Broadcast Signals*, Third Report and Order, 22 FCC Rcd 21064 (2007) ("*Viewability Order*").

[73] *See Viewability Order* at ¶¶ 41-63.

[74] *See C-SPAN, Inc. v. FCC*, 545 F.3d 1051 (D.C. Cir. 2008).

[75] *Viewability Order* at ¶ 60.

[76] *TWC Response* at 33.

[77] *See* 47 U.S.C. § 549; *Comcast Corp. v. FCC*, 536 F.3d 763 (D.C. Cir. 2008); *Charter Communications, Inc. v. FCC*, 460 F.3d 31 (D.C. Cir. 2006).

MVPDs under the integration ban, the D.C. Circuit previously rejected the cable industry's attempt to raise the differential treatment of cable and DBS in another proceeding, noting the evidence set forth by the Commission of the distinctions in the navigation-device market for cable and DBS and observing that "the cable industry is 'perfectly capable of filing a petition tomorrow with the Commission' that will generate a record appropriate for consideration of those issues."[78] The same holds true here.

B. TWC Willfully Violated Section 76.640(b) by Failing to Comply with the Commission's Technical Rules Regarding the Provision of a Virtual Channel Table for SDV Programming

27. TWC contends that the *TWC NAL and Order*'s finding that the standard incorporated by reference in Section 76.640(b)(1)(i) applies to all services, including two-way services like SDV is wrong.[79] According to TWC, Section 76.640(b)(1)(i), through the incorporated standard SCTE 40 (2003), stands for the proposition that SCTE 65 tables must be presented only for services that are *offered* to the UDCP host device. Since two-way services are not offered, they need not be included.[80] TWC further asserts that because the text of the rule is limited to one-way products, it cannot reasonably be applied to two-way *services*.[81] Issues relating to two-way services, TWC states, were not yet ripe for consideration during the Commission's consideration of its *Plug and Play Order*, and so were never intended to be encompassed by this rule. TWC also cites to the technical standard SCTE 65 to suggest that the standard was not intended to apply to two-way services, partly because hidden channels are skipped when the subscriber is channel surfing, and partly because the standards state that UDCPs may disregard virtual channel data associated with an application-type virtual channel. TWC argues that the virtual channel table is designed to present only channels that are accessible.[82]

28. TWC's arguments are without merit. On its face, Section 76.640 applies only to unidirectional *products*.[83] Section 76.640(b)(1) makes no distinction between unidirectional and bi-directional *services*. Indeed, by its own terms, the standard incorporated by reference in Section 76.640(b)(1)(i) applies to *all services* – there is no exception for bi-directional services.[84] Therefore, TWC is required to describe programming on an SDV platform in the out-of-band forward data channel and populate the virtual channel table with all of its programming services.

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[78] *Charter*, 460 F.3d at 43 (quoting FCC counsel). Similarly, although TWC complains about a waiver given by the Media Bureau to Verizon, TWC never sought Commission review of that waiver, and this is not the appropriate proceeding for challenging its merits.

[79] *TWC Response* at 37.

[80] *Id.* at 37-38.

[81] *Id.*

[82] *TWC Response* at 38-40.

[83] *See* 47 C.F.R. §76.640 ("Support for unidirectional digital cable products on digital cable systems.").

[84] *Id.* at § 76.640(b)(1)(i) (incorporating by reference SCTE 40 2003, Section 5.5, which states that "[w]hen one or more scrambled services are offered on the cable system, System and Service Information for all services (both scrambled and in-the-clear) shall be carried in an out-of-band Forward Data Channel...").

29. TWC next argues that, because Section 15.123 provides that a UDCP cannot be labeled as digital-ready unless it can navigate channels through the virtual channel table, the provision of SDV data to UDCPs would render them non-compliant since the devices would be unable to navigate to SDV programming.[85] According to TWC, as a result, the UDCP would be rendered noncompliant with the Part 15 rules, could not be marketed as digital cable ready, and cable operators would be relieved of any obligation to support these devices since they are required only to "support unidirectional digital cable products . . ."[86] TWC argues that rules are not to be interpreted in manner that would nullify corresponding rules. Lastly, TWC argues that there is no practical benefit to transmitting information for channels that cannot be viewed without a set-top box.[87]

30. We disagree. Requiring compliance with Section 76.640(b) does not conflict with Section 15.123 and provides a significant practical benefit. As we stated in the *TWC NAL and Order*, including the SDV programming in the virtual channel table would make it clear to TWC subscribers using CableCARD-equipped UDCPs that their cable operator is charging them for programming that they cannot see.[88] We reiterate that if TWC believed it had a legitimate reason to exclude two-way programming from the virtual channel table provided to customers with CableCARD-equipped UDCPs, the company should have sought a waiver of the relevant rules.[89] Accordingly, based on the record before us, we find that TWC willfully violated Section 76.640(b) by failing to provide a virtual channel table as required by Section 76.640(1)(b)(i) and 76.640(b)(1)(v) in its Oceanic Oahu Central Cable System.

C. The Bureau Did Not Exceed Its Delegated Authority in Issuing the NAL

31. TWC argues that the Bureau's expansive interpretations of the Rules and its decision to penalize the company present novel questions of policy and law; the issues, therefore, fall outside the scope of the Bureau's delegated authority and must be submitted to the Commission for en banc disposition under Section 0.311(a)(1).[90]

32. The Enforcement Bureau serves as the primary Commission entity responsible for enforcement of the Act, the Commission's rules, and Commission orders.[91] The Bureau has delegated authority to issue orders taking appropriate action in response to complaints or investigations, including issues notices of apparent liability and related orders.[92] The Bureau has delegated authority to decide matters unless they "present novel questions of law, fact or policy that cannot be resolved under existing precedents and guidelines."[93] The questions presented here are consistent with the Commission's *Plug and Play Order*, the rules found in Section

[85] *TWC Response* at 41-42.

[86] *TWC Response* at 41.

[87] *Id.* at 42.

[88] *TWC NAL and Order*, XXX at para. 27.

[89] 47 C.F.R. § 76.1207.

[90] *TWC Response* at 43.

[91] 47 C.F.R. § 0.111.

[92] 47 C.F.R. § 0.111(17).

[93] 47 C.F.R. § 0.311(a)(3).

76.1201 implementing that order, and the technical rules of Section 76.640(b). As such, the Bureau acted within its delegated authority in issuing the *TWC NAL and Order*. The Bureau is merely applying existing rules and case law to the instant facts.

D. Forfeiture Calculation

33. Under Section 503(b)(1)(B) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.[94] To impose such a forfeiture penalty, the Commission must issue a notice of apparent liability and the person against whom such notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.[95] The Commission will then issue a forfeiture if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.[96] We conclude that TWC is liable for a forfeiture in the amount of twenty thousand dollars ($20,000) for its willful violation of Sections 76.1201, 76.640(b)(1)(i), and 76.640(b)(1)(v) of the Rules.

34. Under Section 503(b)(2)(A) and Section 1.80(b)(1) of the Commission's Rules,[97] we may assess a cable television operator a forfeiture of up to $32,000 for each violation or each day of a continuing violation, up to a statutory maximum forfeiture of $325,000 for any single continuing violation. In exercising such authority, we are required to take into account "the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."[98]

35. The Commission's *Forfeiture Policy Statement*[99] and Section 1.80 of the Rules do not establish a specific base forfeiture for violation of Section 76.1201.[100] In a similar case, the

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[94] 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1).

[95] 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

[96] *See, e.g., SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591 (2002).

[97] 47 U.S.C. § 503(b)(2)(A); 47 C.F.R. § 1.80(b)(1). The Commission has repeatedly amended Section 1.80(b)(1) of the Rules to increase the maximum forfeiture amounts, in accordance with the inflation adjustment requirements contained in the Debt Collection Improvement Act of 1996, 28 U.S.C. § 2461. Most recently, the Commission raised the maximum forfeitures applicable to cable operators, broadcast licensees, and applicants for such authority from $32,500 to $37,500 for a single violation, and from $325,000 to $375,000 for continuing violation. *See* Inflation Adjustment of Maximum Forfeiture Penalties, 73 Fed. Reg. 44663, 44664 (July 31, 2008). The new forfeiture limits took effect September 2, 2008, apply to violations occurring after that date, and accordingly do not apply to this case.

[98] 47 U.S.C. § 503(b)(2)(E). *See also* 47 C.F.R. § 1.80(b)(4), Note to paragraph (b)(4): Section II. Adjustment Criteria for Section 503 Forfeitures. We consider TWC's apparent violations of Section 76.1201 to have begun on the date its cable system moved previously available linear programming to an SDV platform. TWC's apparent violations continue each day that such programming remains unavailable to customers using CableCARD-equipped UDCPs.

[99] *See The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17115 (1997) ("*Forfeiture Policy Statement*"), *recon. denied*, 15 FCC Rcd 303 (1999).

[100] The Bureau has substantial discretion in proposing forfeitures. *See, e.g., InPhonic, Inc.*, Order of Forfeiture and Further Notice of Apparent Liability, 22 FCC Rcd 8689, 8699 (2007); *Globcom, Inc. d/b/a Globcom*

(continued....)

Commission proposed forfeitures for each cable system involved in the violation.[101] Thus, we establish a base forfeiture amount for each cable system in which linear programming has been moved to an SDV platform, thereby impairing customers' use of navigation devices such as UDCPs to view such programming. As noted above, this case involves one of TWC's Hawaii Division cable systems – Oceanic Oahu Central Cable System.

36. As we stated in the *TWC NAL and Order,* one analogous violation for which the Commission has already established a base forfeiture is violation of the cable broadcast signal carriage rule, which has a base forfeiture of $7,500.[102] Given the number of channels involved and the effect of actions like those here on the Commission's policy objectives, however, we conclude that a more significant penalty is appropriate. We conclude that $10,000 per cable system in which linear programming is moved to an SDV platform is an appropriate base forfeiture for violation of Section 76.1201. In this case, TWC moved linear programming to an SDV platform in one cable system, Oceanic Oahu Central Cable System. Accordingly, we conclude that TWC is liable for a $10,000 forfeiture for its willful violation of Section 76.1201 of the Rules.

37. Additionally, we conclude that TWC is liable for a forfeiture in the amount of $5,000 for its willful violation of Section 76.640(b)(1)(i) of the Rules and $5,000 for its willful violation of Section 76.640(b)(1)(v) of the Rules. The Commission's *Forfeiture Policy Statement* and Section 1.80 of the Rules do not establish a specific base forfeiture for violation of Section 76.640(b). However, we note that Section 1.80(b) establishes a base forfeiture of $5,000 for unauthorized discontinuance of service.[103] We find that the actions of TWC effectively discontinue a portion of the services for each of its CableCARD subscribers who choose to view content via a UDCP. We also conclude that the amount of the forfeiture for each violation is commensurate with the harm imposed upon cable subscribers. Because the violation of Section 76.640(b)(1) coincides with the migration of linear channels to an SDV platform, we will also apply this base forfeiture amount of $5,000 for each technical violation of Section 76.640(b)(1) on a per cable system basis. Accordingly, we conclude that TWC is liable for a forfeiture in the amount of $10,000 for its willful violation of Sections 76.640(b)(1)(i) and 76.640(b)(1)(v) in its Oceanic Oahu Central Cable System.

(...continued from previous page)
Global Commun., Order of Forfeiture, 21 FCC Rcd 4710, 4723-24 (2006). We may apply the base forfeiture amounts described in the *Forfeiture Policy Statement* and the Commission's rules, or we may depart from them altogether as the circumstances demand. *See* 47 C.F.R. § 1.80(b)(4) ("The Commission and its staff *may* use these guidelines in particular cases[, and] *retain the discretion* to issue a higher or lower forfeiture than provided in the guidelines, to issue no forfeiture at all, or to apply alternative or additional sanctions as permitted by the statute.") (emphasis added).

[101] *See, e.g., Cablevision Systems Corporation,* Forfeiture Order, 15 FCC Rcd 24298 (2000) ("*Cablevision Forfeiture Order*") (imposing forfeitures against Cablevision on a cable system basis). SDV is installed at separate hubs throughout the cable system, but generally the operator will implement the technology on a system-wide basis.

[102] 47 C.F.R. § 1.80(b)(4)(Note). *See also Cablevision Forfeiture Order,* 15 FCC Rcd at 24298.

[103] 47 C.F.R. § 1.80(b)(4)(Note). Violation of the broadcast signal carriage rule is also analogous to TWC's failure to provide the SDV programming information in its virtual channel table. In contrast with violations of Section 76.1201, however, violations of Section 76.640(b)(1) do not affect the viewability of actual programming. Therefore, it is appropriate to impose a somewhat lesser penalty for such technical violations.

38. TWC's implementation of SDV in its Oceanic Oahu Central Cable System, in which previously available linear programming was moved to an SDV platform, resulted in the removal of channel information and the loss of access to those switched channels for its subscribers using CableCARD-equipped UDCPs. Moreover, such implementation of SDV, without having in place standards to ensure bi-directional compatibility of cable television systems and CE equipment, effectively harms the Commission's policies to move navigation devices toward a fully competitive market. We note that TWC could have sought a waiver of these rules under Section 76.1207, but failed to do so.[104] Accordingly, we conclude that TWC is liable for a total forfeiture amount of twenty thousand ($20,000) for its willful violation of Sections 76.1201 ($10,000), 76.640(b)(1)(i) ($5,000), and 76.640(b)(1)(v) ($5,000) of the Commission's Rules.

E. TWC Must Issue Refunds to Customers Harmed by its SDV Implementation

39. As we noted in the *TWC NAL and Order,* TWC's implementation of SDV has harmed its customers who opted to purchase and use television receiving equipment that does not require a cable operator-supplied set-top device to receive cable service. Many consumers purchased expensive UDCPs, such as "cable ready" televisions and digital video recorders like TiVos, based on the reasonable assumption that no set-top box would be necessary to receive linear programming.[105] In effect, TWC's movement of linear programming to an SDV platform has substantially diminished the value of its customers' UDCP devices. Moreover, CableCARD customers affected by TWC's SDV deployment now must pay higher prices to lease set-top boxes than they would have paid for CableCARDs. Those CableCARD customers who chose not to obtain the TWC-supplied set-top boxes after the implementation of SDV nevertheless have paid the same monthly rate for their cable service even though they can view significantly fewer channels. Most importantly, however, TWC's movement of linear programming to an SDV platform set back the shared goal of Congress and the Commission of a competitive market for commercially available navigation devices, as required by Section 629 and the Commission's Rules.

40. In calculating the harm to TWC's customers who use UDCP equipment, we recognize that TWC has made offers to its CableCARD customers to offset the costs of obtaining a set-top box. While TWC's offer to provide a free set-top box to its CableCARD customers may provide temporary relief to its customers, it is not a permanent solution – the benefits promised by TWC are, at best, limited in duration. TWC's offer does not address the critical problem concerning the company's interference with its customers' use of independently obtained UDCPs, *i.e.*, the loss of service to the extent customers can view fewer channels than they did before the

[104] Under Section 629(c) of the Act, 47 U.S.C. § 549(c) and Section 76.1207 of the Commission's Rules, 47 C.F.R. § 76.1207, the Commission may waive rules adopted under Section 629(a) of the Act for a limited time "upon an appropriate showing by a provider of multichannel video programming and other services offered over multichannel video programming systems, or an equipment provider, that such waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. *See* 47 U.S.C. § 549(c), 47 C.F.R. § 76.1207.

[105] For instance, one complainant stated that after talking to a customer service representative who stated that the CableCARDs would allow access to HD programming on a HD-Tivo DVR, the consumer spent $300 for the HD-Tivo DVR and $300 for a Tivo Service subscription package. Three weeks later, when the technician came to install the CableCARDs, the customer could not receive the HD package because TWC no longer "offered the cable cards with HD." *See* Complaint No. 07-R522759 at Attachment A.

movement of linear programming to an SDV platform, nor does it address the loss of functionality of the device in question.

41. In the *TWC NAL and Order*, we ordered TWC, within ninety (90) days of the *NAL and Order*, to issue refunds to CableCARD customers affected by the November 6, 2007 implementation of SDV in its Oceanic Oahu Central Cable System.[106] In addition, within thirty (30) days of the release of the *TWC NAL and Order*, we required TWC to submit to the Enforcement Bureau an explanation of the method the company planned to use to determine the appropriate amount of refunds, the number of customers receiving refunds, the total value of such refunds, and the planned timing of such refunds. TWC failed to comply with the Bureau's Order and the Bureau is separately addressing that violation of the Commission's Rules.

42. Thus, we order TWC, within ninety (90) days of this *Forfeiture Order*, to issue refunds to CableCARD customers affected by the November 6, 2007 implementation of SDV in its Oceanic Oahu Central Cable System. Specifically, TWC must provide refunds as follows:

(a) For former CableCARD customers that began to lease any set-top boxes from TWC following notice of a possible SDV deployment, TWC must refund the difference in cost (if any) between the charges for the TWC set-top boxes and the CableCARD previously leased by such customers; and

(b) For CableCARD customers that kept their CableCARDs even after notice of the SDV deployment, TWC must refund the customers' subscriber fees based on the diminished value of their service following the movement of linear programming to an SDV platform by $0.10 per month, per channel moved and reduce their rates on a going-forward basis accordingly.[107]

IV. ORDERING CLAUSES

43. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, Section 1.80 of the Rules, and the authority delegated by Sections 0.111 and 0.311 of the Commission's Rules, Oceanic Time Warner Cable, a division of Time Warner Cable, Inc., Oceanic Oahu Central Cable System **IS LIABLE FOR A FORFEITURE** in the amount of twenty thousand dollars ($20,000) for willful violation of Sections 76.1201, 76.640(b)(1)(i) and 76.640(b)(1)(v) of the Rules.

44. **IT IS FURTHER ORDERED** that, pursuant to sections 1, 4(i), 4(j), 601, and 629 of the Communications Act of 1934, as amended 47 U.S.C. §151, 154(i), 154(j), 521, 549, Time Warner Cable, Inc. must take the steps set forth in paragraph 42 of this *Forfeiture Order*.

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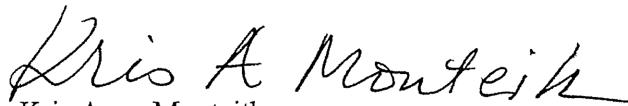
[106] *TWC NAL and Order* at 39.

[107] $0.10 is our best estimate of the relevant license fee per channel. We note that TWC did not provide an explanation of the method the company planned to use to determine the appropriate amount of refunds as required by the *TWC NAL and Order*. The Bureau will reconsider the appropriate license fee per channel should TWC submit a petition for reconsideration that includes evidence that the license fees of the affected channels are lower than $0.10 per month.

45. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission within thirty (30) days of the release of this Order. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. TWC will also send electronic notification on the date said payment is made to JoAnn.Lucanik@fcc.gov and Kevin.Pittman@fcc.gov.

46. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture and Order shall be sent by first class mail and certified mail return receipt requested to counsel for Time Warner, Inc.: Arthur H. Harding, Esq., Fleischman and Harding LLP, 1255 23rd Street, N.W., Eighth Floor, Washington, D.C. 20037 and Matthew A. Brill, Esq., Latham & Watkins LLP, 555 Eleventh Street, N.W., Suite 1000, Washington, D.C. 20004-1304.

FEDERAL COMMUNICATIONS COMMISSION



Kris Anne Monteith
Chief, Enforcement Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	File Number EB-07-SE-352
	)	
Oceanic Time Warner Cable,	)	NAL/Acct. No. 200932100023
a division of Time Warner Cable, Inc.	)	
Oceanic Oahu Central Cable System	)	FRN 0018049841
	)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: January19, 2009 **Released: January 19, 2009**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture*("*NAL*"), we find that Time Warner Cable, Inc. ("TWC") apparently willfully violated a Commission Order and Section 76.939 of the Commission's Rules ("Rules")[1] by failing to comply with a Bureau directive to describe the methodology it planned to use to refund money to subscribers harmed by the company's apparent violation of various Commission Rules.[2] We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),[3] that TWC is apparently liable for a forfeiture in the amount of twenty-five thousand dollars ($25,000).

II. BACKGROUND

2. On November 8, 2007, the Spectrum Enforcement Division of the Enforcement Bureau ("Bureau") issued a Letter of Inquiry ("LOI")[4] to TWC based on complaints that the company had moved certain cable channels that previously had been accessible to subscribers using CableCARD-equipped UDCPs, such as digital cable ready television sets and digital video recorders, to a switched digital video ("SDV") platform. In doing so, TWC made the affected channels inaccessible to subscribers unless they leased a set top box from the company. The LOI sought information on a number of issues, and asked the company to explain how its implementation of SDV was consistent with various statutory and regulatory provisions and orders.

3. TWC responded to the LOI on November 30, 2007,[5] and subsequently provided additional information to the Bureau in response to supplemental LOIs and information requests. On

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[1] 47 C.F.R. §76.939 ("Cable operators shall comply with ... the Commission's requests for information, orders, and decisions.").

[2] *See Oceanic Time Warner Cable, Oahu Central Cable System,* Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 149995, paras. 39-40, 43 (Enf. Bur. 2008) ("*Oceanic Oahu Central NAL and Order*") (response received).

[3] 47 U.S.C. § 503(b).

[4] *See* Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission to Mark Lawrence-Apfelbaum, Esq., Executive Vice President and General Counsel, Time Warner Cable, Inc. (Nov. 8, 2007) ("Nov. 8 LOI").

[5] *See* Letter from Arthur H. Harding, Fleischman and Harding LLP and Matthew A. Brill, Latham & Watkins LLP, Counsel for Time Warner Cable, to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (Nov. 30, 2007) ("Nov. 30 LOI Response").

October 15, 2008, the Enforcement Bureau issued the *Oceanic Oahu Central NAL and Order*, finding that the company's migration of programming to an SDV platform had apparently violated various Commission Rules and orders. Consequently, the *Oceanic Oahu Central NAL and Order* proposed a forfeiture against the company in the amount of $20,000 for the company's apparent violations.

4. Additionally, the *Oceanic Oahu Central NAL and Order* directed the company to provide refunds to subscribers harmed by the implementation and to provide us with an outline of the company's planned methodology for issuing those refunds.[6] Specifically, the *Oceanic Oahu Central NAL and Order* ordered TWC, within ninety (90) days of release of the *Oceanic Oahu Central NAL and Order,* to take the following steps:

(a) For former CableCARD customers that began to lease any set-top boxes from TWC following notice of a possible SDV deployment, TWC must refund the difference in cost (if any) between the charges for the TWC set-top boxes and the CableCARDs previously leased by such customers; and

(b) For CableCARD customers that kept their CableCARDs even after notice of the SDV deployment, TWC must refund the customers' subscriber fees based on the diminished value of their service following the movement of linear programming to an SDV platform and reduce their rates on a going-forward basis accordingly.

5. The *Oceanic Oahu Central NAL and Order* also required TWC to submit to the Enforcement Bureau an explanation of the method the company plans to use to determine the appropriate amount of refunds, the number of customers receiving refunds, the total value of such refunds, and the planned timing of such refunds. The *Oceanic Oahu Central NAL and Order* directed TWC to submit this information to the Enforcement Bureau for review and approval within thirty (30) days of the release of this decision and to proceed with its proposed refund plan within sixty (60) days of such submission provided the Enforcement Bureau approves TWC's proposed refund plan within thirty (30) days of TWC's submission.[7]

6. TWC responded to the NAL on November 14, 2008.[8] The company also filed a Petition for Reconsideration and a Request for Stay of the *Oceanic Oahu Central NAL and Order*.[9] TWC did not provide any information about its methodology for issuing refunds to subscribers harmed by its apparent violations of Commission Rules, instead arguing that the *Oceanic Oahu Central NAL and Order* was unlawful. Nor has the company taken any other steps to comply with the *Oceanic Oahu Central NAL and Order.* Instead, TWC requests that the *Oceanic Oahu Central NAL and Order* either be stayed, pending final resolution of the issues in this matter, or be cancelled in its entirety.[10]

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[6] *Oceanic Oahu Central NAL and Order,*23 FCC Rcd at 14995, paras. 39-40, 43.

[7] *Id.* at 14995, paras. 39-40.

[8] *Time Warner Cable, Inc.'s Response to Notices of Apparent Liability and Request for Cancellation of Proposed Forfeitures*, File No. EB-07-SE-352 (filed Nov. 14, 2008) ("TWC NAL Response").

[9] *Petition for Reconsideration of Time Warner Cable, Inc.,* File No. EB-07-SE-352 (filed Nov. 14, 2008) ("TWC Petition for Reconsideration"); *Time Warner Cable, Inc. Request for Stay Pending Resolution of Petition for Reconsideration and Request for Cancellation of Proposed Forfeitures,* File No. EB-07-SE-352 (filed Nov. 14, 2008) ("TWC Request for Stay").

[10] We will address those filings by separate order.

III. DISCUSSION

A. TWC Apparently Has Violated a Commission Order And Section 76.939

7. We find that TWC apparently willfully[11] violated a Commission order and Section 76.939 of the Rules. The Commission has broad investigatory authority under Sections 4(i), 4(j), and 403 of the Act, its Rules, and relevant precedent. Section 4(i) authorizes the Commission to "issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions."[12] Section 4(j) states that "the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice."[13] Section 403 grants the Commission "full authority and power to institute an inquiry, on its own motion ... relating to the enforcement of any of the provisions of this Act."[14] Pursuant to Section 76.939 of the Rules, a cable operator must comply with FCC requests for information, orders, and decisions.[15]

8. The *Oceanic Oahu Central NAL and Order* expressly directed TWC to provide the Bureau with an outline of its intended refund methodology. We reject any contention that TWC was not obligated to comply fully with the Bureau's order because of the pendency of its Petition for Reconsideration and Request for Stay.[16] The filing of such pleadings does not trigger an automatic stay of such order.[17] Neither the Bureau nor the Commission has granted TWC's Request for Stay or Petition for Reconsideration. Thus, TWC should have submitted its proposed refund methodology by November 14, 2008, in compliance with the terms of the *Oceanic Oahu Central NAL and Order*. As the Commission has stated, "parties are required to comply with Commission orders even if they believe

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[11] Section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history of Section 312(f)(1) of the Act indicates that this definition of willful applies to both Sections 312 and 503(b) of the Act, H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982), and the Commission has so interpreted the term in the Section 503(b) context. *See, e.g., Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387-88 ¶ 5 (1991) ("*Southern California Broadcasting*").

[12] 47 U.S.C. § 154(i).

[13] 47 U.S.C. § 154(j).

[14] 47 U.S.C. § 403.

[15] 47 C.F.R. § 76.939 ("Cable operators shall comply with ... the Commission's requests for information, orders, and decisions."). In carrying out this obligation, a cable operator also must provide truthful and accurate statements to the Commission or its staff in any investigatory or adjudicatory matter within the Commission's jurisdiction. *Id.*

[16] We further note that although TWC posits several arguments related to the refund provision, those arguments do not address that portion of the *Oceanic Oahu Central NAL and Order* that requires TWC to submit its proposed refund methodology to the Bureau within 30 days. Instead, TWC's arguments decry the *issuance* of the refund to the subscribers harmed by its acts, a distinct and separate act required under the *Oceanic Oahu Central NAL and Order*.

[17] *See* 47 C.F.R. §§ 1.102(b), 1.106(n), 1.429(k).

them to be outside the Commission's authority."[18] TWC failed to do so. We find, therefore, that TWC apparently willfully[19] violated a Commission order and Section 76.939 of the Rules.

B. Proposed Forfeiture

9. Under Section 503(b)(1)(B) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.[20] To impose such a forfeiture penalty, the Commission must issue a notice of apparent liability and the person against whom such notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.[21] The Commission will then issue a forfeiture if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.[22] We conclude under this standard that TWC is apparently liable for forfeiture for its apparent willful violation of a Commission Order and Section 76.939 of the Rules.

10. Under Section 503(b)(2)(A) of the Act,[23] we may assess a cable operator a forfeiture of up to $37,500 for each violation, or for each day of a continuing violation up to a maximum of $375,000 for a single act or failure to act. In exercising such authority, we are required to take into account "the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."[24]

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[18] *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591 para. 5 (2002) ("*SBC Forfeiture Order*"); *see also* 47 U.S.C. § 408 (Commission orders "shall continue in force for the period of time specified in the order or until the Commission or a court of competent jurisdiction issues a superseding order."); 47 U.S.C. § 416(c) ("It shall be the duty of every person, its agent and employees ... to observe and comply with such orders so long as the same shall remain in effect"); *Peninsula Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 2832, 2834 para. 5 (2002) (subsequent history omitted) (a regulatee "cannot ignore a Commission order simply because it believes such order to be unlawful"); *World Communications Forfeiture Order,* 19 FCC Rcd at 2719-2720 (issuing forfeiture against regulatee who failed to respond to an LOI because it believed the LOI to be beyond the Commission's jurisdiction).

[19] Section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history of Section 312(f)(1) of the Act indicates that this definition of willful applies to both Sections 312 and 503(b) of the Act, H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982), and the Commission has so interpreted the term in the Section 503(b) context. *See, e.g., Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387-88 ¶ 5 (1991) ("*Southern California Broadcasting*").

[20] 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1).

[21] 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

[22] *See, e.g., SBC Forfeiture Order*, 17 FCC Rcd at 7591.

[23] 47 U.S.C. § 503(b)(2)(A). The Commission has amended Section 1.80(b)(3) of the Rules, 47 C.F.R. § 1.80(b)(3), three times to increase the maximum forfeiture amounts, in accordance with the inflation adjustment requirements contained in the Debt Collection Improvement Act of 1996, 28 U.S.C. § 2461. *See Amendment of Section 1.80 of the Commission's Rules and Adjustment of Forfeiture Maxima to Reflect Inflation*, 23 FCC Rcd 9845 (2008) (adjusting the maximum statutory amounts for broadcasters and cable operators from $32,500/$325,000 to $37,500/$375,000); *Amendment of Section 1.80 of the Commission's Rules and Adjustment of Forfeiture Maxima to Reflect Inflation,* Order, 19 FCC Rcd 10945 (2004) (adjusting the maximum statutory amounts for broadcasters and cable operators from $27,500/$300,000 to $32,500/$325,000); *Amendment of Section 1.80 of the Commission's Rules and Adjustment of Forfeiture Maxima to Reflect Inflation,* Order, 15 FCC Rcd 18221 (2000) (adjusting the maximum statutory amounts for broadcasters and cable operators from $25,000/$250,000 to $27,500/$300,000). The most recent inflation adjustment took effect September 2, 2008 and applies to violations that occur after that date. *See* 73 Fed. Reg. 44663-5. TWC's apparent violations occurred after September 2, 2008 and are therefore subject to the higher forfeiture limits.

[24] 47 U.S.C. § 503(b)(2)(E). *See also* 47 C.F.R. § 1.80(b)(4), Note to paragraph (b)(4): Section II. Adjustment Criteria for Section 503 Forfeitures.

11. Section 1.80 of the Rules and the Commission's *Forfeiture Policy Statement* do not establish a base forfeiture amount for violations of Section 76.939, although they do establish four thousand dollars ($4,000) as the base amount for failure to respond to Commission communications.[25] We find that TWC's apparent failure to comply with the *Oceanic Oahu Central NAL and Order* warrants a substantially larger forfeiture. Misconduct of this type exhibits contempt for the Commission's authority and threatens to compromise the Commission's ability to carry out its obligations under the Act. In this case, TWC's apparent violations have impeded our efforts to carry out the statutory dictates of Section 629 of the Act and perpetuated harm to affected subscribers.

12. We therefore propose a forfeiture of twenty-five thousand dollars ($25,000) against TWC for its apparent violations of the *Oceanic Oahu Central NAL and Order* and Section 76.939. This forfeiture amount is consistent with precedent in similar cases, where companies failed to provide responses to Bureau inquiries concerning compliance with the Commission's rules despite evidence that the LOIs had been received.[26]

IV. ORDERING CLAUSES

13. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and Section 1.80 of the Rules, and the authority delegated by Sections 0.111 and 0.311 of the Commissions Rules, Time Warner Cable, Inc. is **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twenty-five thousand dollars ($25,000) for its willful violation of a Commission Order and Section 76.939 of the Rules.

14. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules, within thirty (30) days of the release date of this *Notice of Apparent Liability for Forfeiture*, TWC **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

15. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. TWC will also send electronic notification on the date said payment is made to JoAnn.Lucanik@fcc.gov and Kevin.Pittman@fcc.gov.

16. The response, if any, must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement

[25] *See* 47 C.F.R. § 1.80(b)(4); *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd. 17087 (1997), *recon. denied,* 15 FCC Rcd. 303 (1999).

[26] *See e.g., SBC Forfeiture Order*, 17 FCC Rcd at 7599-7600 ¶¶ 23-28 (ordering $100,000 forfeiture for egregious and intentional failure to certify the response to a Bureau inquiry) ("*SBC Forfeiture Order*"); *Digital Antenna, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 7600, 7602 (Spectr. Enf. Div., Enf. Bur. 2008) (proposing $11,000 forfeiture for failure to provide a complete response to an LOI); *BigZoo.Com Corporation*, Forfeiture Order, 20 FCC Rcd 3954 (Enf. Bur. 2005) (ordering $20,000 forfeiture for failure to respond to an LOI).

Bureau – Spectrum Enforcement Division, and must include the NAL/Acct. No. referenced in the caption. The response should also be e-mailed to JoAnn Lucanik, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, FCC, at JoAnn.Lucanik@fcc.gov and Kevin M. Pittman, Esq., Spectrum Enforcement Division, FCC, at Kevin.Pittman@fcc.gov.

17. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

18. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail return receipt requested to counsel for Time Warner Cable, Inc., Matthew A. Brill, Esq., Latham & Watkins LLP, 555 11th Street, NW, Suite 1000, Washington, DC, 20004.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	File Number EB-07-SE-352
	)	
Oceanic Time Warner Cable,	)	NAL/Acct. No. 200832100074
a subsidiary of Time Warner Cable, Inc.	)	
	)	FRN 0018049841
	)	

FORFEITURE ORDER

Adopted: January 19, 2009 **Released: January 19, 2009**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* ("*Order*"), we find that Oceanic Time Warner Cable, a subsidiary of Time Warner Cable, Inc. (collectively, "TWC") willfully violated Section 76.1603(c) of the Commission's Rules ("Rules").[1] Specifically, TWC failed to provide the requisite thirty (30) day advance written notice to the Hawaii Department of Commerce and Consumer Affairs, Cable Television Division, which serves as the local franchise authority ("LFA") for the State of Hawaii, before implementing a service change caused by the migration of certain channels to its Switched Digital Video ("SDV") platform on September 24, 2007. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),[2] that TWC is liable for a forfeiture in the amount of seven thousand five hundred dollars ($7,500).

II. BACKGROUND

2. The facts and circumstances of this case are set forth in the Bureau's *Notice of Apparent Liability for Forfeiture*[3] and need not be reiterated at length. Briefly, in response to complaints, the Enforcement Bureau ("Bureau") initiated an investigation of TWC's movement to an SDV platform of certain cable channels that previously were accessible to subscribers using CableCARD-equipped unidirectional digital cable products ("UDCPs"), including digital cable ready television sets. TWC's implementation of SDV necessarily required such subscribers to obtain a set top box from the cable company to continue to view all cable channels available to them prior to the SDV migration. CableCARD subscribers that failed to lease a set top box from TWC lost access to those channels, even though TWC continued to charge them the same price. Our investigation sought information about TWC's SDV migrations, including whether the company had complied with Section 76.1603 of the Rules, which requires cable operators to notify subscribers and Local Franchising Authorities ("LFAs") in writing at least thirty (30) days prior to making any changes to rates or services.[4]

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[1] 47 C.F.R. § 76.1603(c).

[2] 47 U.S.C. § 503(b).

[3] *Oceanic Time Warner Cable, a subsidiary of Time Warner Cable, Inc.,* Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 12804 (Enf. Bur. 2008) ("*TWC NAL*") (response received).

[4] Section 76.1603(c) states, in relevant part:

> [C]able systems shall give 30 days written notice to both subscribers and local franchising authorities before implementing any rate or service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, change in external costs or the addition/deletion of channels). When

3. One of the SDV migrations at issue occurred in Hawaii on September 24, 2007 ("the Hawaii SDV migration"). In response to our inquiry, TWC did not claim that it had provided thirty (30) days advance written notice of the Hawaii SDV migration to the Cable Television Division of the Hawaii Department of Commerce and Consumer Affairs ("the Hawaii LFA"). Instead, the company argued that the notification provisions of Section 76.1603 did not apply because the "provision of SDV services does not involve a change in rates or service packages."[5] According to TWC, the only change was that of equipment. As such, the applicable notice requirement was Section 76.1622 of the Commission Rules, which requires that cable operators provide annual equipment compatibility notices to advise subscribers - but not LFAs - that "some models of TV receivers ... may not be able to receive all of the channels offered by the cable system when connected directly to the cable system."[6] TWC contended that it had complied with all relevant Commission Rules because it had provided such notice to its subscribers.[7]

4. On August 22, 2008, after reviewing the evidence and TWC's arguments, we issued the *NAL*, finding that TWC apparently had willfully violated Section 76.1603(c) by failing to notify the Hawaii LFA of its SDV deployment on September 24, 2007. TWC responded to the NAL on September 22, 2008.[8]

III. DISCUSSION

A. TWC Violated Section 76.1603(c) By Failing To Notify the Hawaii LFA of the Hawaii SDV Deployment

5. Based on the record before us, we find that TWC willfully violated Section 76.1603(c) by failing to provide the Hawaii LFA thirty (30) days advance written notice prior to the cable operator's movement of certain channels to a SDV platform on September 24, 2007. As the Commission has stated, "it is crucial that local franchising authorities receive timely notice of a cable operator's change to programming service."[9] TWC failed to provide such notice here, and is therefore subject to forfeiture.

6. In its *NAL Response*, TWC again argues that its movement of linear channels to an SDV platform did not involve a change in "rates" or "service" subject to Section 76.1603's notice requirements. Specifically, TWC contends "there was no change in the number or placement of the channels that TWC delivered to its customers or in any other aspect of the service it provides."[10] But TWC did change the channels it delivered to its CableCARD-using subscribers when it moved those channels to an SDV platform. Such customers received one group of channels on September 23, 2007, and a smaller group of channels the next day. As we stated in the *NAL,* we judge whether there was a change in service from the "subscribers' perspective – not that of the cable operator…."[11] From the perspective of the complainants, it is clear that they viewed the elimination of access to dozens of channels, including popular high-definition programming, as a "change in service."

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the change involves the addition or deletion of channels, each channel added or deleted must be separately identified.

47 C.F.R. §76.1603(c).

[5] *See TWC NAL,* 23 FCC Rcd at 12805 para. 3.

[6] 47 C.F.R. § 76.1622(b)(1).

[7] *See TWC NAL,* 23 FCC Rcd at 12805 para. 4.

[8] *Time Warner Cable Inc. Response to NAL and Request for Cancellation of Forfeiture,* File No. EB-07-SE-352 (filed Sept. 22, 2008) ("TWC NAL Response").

[9] *Time Warner Cable, a Division of Time Warner Entertainment Company, L.P.,* Order on Reconsideration, 21 FCC Rcd 9016, 9027 para. 30 (Media Bur.) ("*TWC Order on Reconsideration*"), *consent decree adopted,* Order, 21 FCC Rcd 11229 (Media Bur. 2006).

[10] TWC NAL Response at 5.

[11] *TWC Order on Reconsideration*, 21 FCC Rcd at 9020 para. 15, *quoted in NAL*, 23 FCC Rcd at 12807 para. 8.

7. We disagree with TWC's assertion that no change in service occurred because the affected subscribers could receive the channels migrated to an SDV platform if they leased a set-top box from the company.[12] According to TWC, all that occurred was a change in the equipment necessary to receive the migrated programming and, as such, the only applicable notice requirement was Section 76.1622 of the Rules. The Commission addressed a similar situation in its decision addressing the responsibilities of cable operators that choose to cease providing programming in analog format and convert to all-digital systems. In that decision, the Commission advised cable operators that such actions were subject to the notice requirements in both the annual equipment notice rule (Section 76.1622) and Section 76.1603.[13] We see no reason (and TWC offers none) why we should come to a different conclusion here.

8. Therefore, for the reasons stated above, we find that TWC violated Section 76.1603(c) by failing to provide at least thirty (30) days notice to the Hawaii LFA before moving certain linear channels to its SDV platform.

B. Forfeiture Calculation

9. Under Section 503(b)(1)(B) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.[14] To impose such a forfeiture penalty, the Commission must issue a notice of apparent liability and the person against whom such notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.[15] The Commission will then issue a forfeiture if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.[16] As discussed below, we conclude that TWC is liable for a forfeiture in the amount of seven thousand five hundred dollars ($7,500) for its willful violation of Section 76.1603(c) of the Rules.

10. At the time of the actions underlying this *Order,* under Section 503(b)(2)(A) and Section 1.80(b)(1) of the Commission's Rules, we could assess a cable television operator a forfeiture of up to $32,000 for each violation or each day of a continuing violation, up to a statutory maximum forfeiture of $325,000 for any single continuing violation.[17] In exercising such authority, we must take into account "the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."[18]

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[12] TWC NAL Response at 7.

[13] "We remind operators who transition their systems to all-digital that they must provide written notice to subscribers about the switch, containing any information they need or actions they will have to take to continue receiving service." *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules,* Third Report and Order, and Third Further Notice of Proposed Rulemaking, 22 FCC Rcd 21064, 21081 para. 38 & n.121 (2007) (citing both Sections 76.1603 and 76.1622). Although the Commission was discussing notice to subscribers in the relevant passage, it cited to Section 76.1603 as a whole, and did not distinguish the LFA notice language.

[14] 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1).

[15] 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

[16] *See, e.g., SBC Communications, Inc.,* Forfeiture Order, 17 FCC Rcd 7589, 7591 (2002).

[17] 47 U.S.C. § 503(b)(2)(A), 47 C.F.R. § 1.80(b)(1). The Commission has repeatedly amended Section 1.80(b)(1) of the Rules to increase the maximum forfeiture amounts, in accordance with the inflation adjustment requirements contained in the Debt Collection Improvement Act of 1996, 28 U.S.C. § 2461. Most recently, the Commission raised the maximum forfeitures applicable to cable operators, broadcast licensees, and applicants for such authority from $32,500 to $37,500 for a single violation, and from $325,000 to $375,000 for continuing violation. *See* Inflation Adjustment of Maximum Forfeiture Penalties, 73 Fed. Reg. 44663, 44664 (July 31, 2008). The new forfeiture limits take effect September 2, 2008 and do not apply to this case.

[18] 47 U.S.C. § 503(b)(2)(E). *See also* 47 C.F.R. § 1.80(b)(4), Note to paragraph (b)(4): Section II. Adjustment Criteria for Section 503 Forfeitures.

11. In the *TWC NAL,* based on these factors, we determined that $7,500 was an appropriate base forfeiture for TWC's failure to notify the Hawaii LFA of the company's change in service, in apparent violation of Section 76.1630(c) of the Rules. TWC's NAL Response does not argue that this amount is excessive and we see no reason to reconsider that figure. Accordingly, we conclude that TWC is liable for a seven thousand five hundred dollar ($7,500) forfeiture for its willful violation of Section 76.1603(c) of the Rules.

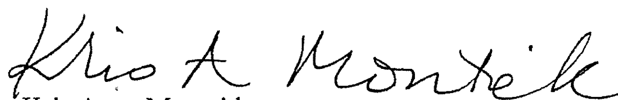
IV. ORDERING CLAUSES

12. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and Section 1.80 of the Rules, and under the authority delegated by sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. S: 0.111, 0.311, Oceanic Time Warner Cable, a subsidiary of Time Warner Cable, Inc. is **LIABLE FOR A MONETARY FORFEITURE** in the amount of seven thousand five hundred dollars ($7,500) for its willful violation of Section 76.1603(c) of the Rules.

13. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. TWC will also send electronic notification on the date said payment is made to JoAnn.Lucanik@fcc.gov.

14. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by first class mail and certified mail return receipt requested to counsel for Time Warner Cable, Inc.: Arthur H. Harding, Esq., Fleischman and Harding LLP, 1255 23rd Street, N.W., Eighth Floor, Washington, D.C. 20037 and Matthew A. Brill, Esq., Latham & Watkins LLP, 555 Eleventh Street, N.W., Suite 1000, Washington, D.C. 20004-1304.

FEDERAL COMMUNICATIONS COMMISSION



Kris Anne Monteith
Chief, Enforcement Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Oceanic Time Warner Cable, A subsidiary of Time Warner Cable, Inc.	)	File Nos. EB-07-SE-351, EB-07-SE-352
	)	
Oceanic Time Warner Cable, a division of Time Warner Cable, Inc. Oceanic Kauai Cable System	)	NAL/Acct. Nos. 200832100074, 200932100001, 200932100002, 200932100003, 200932100008, 200932100022, and 200932100023
Oceanic Time Warner Cable, a division of Time Warner Cable, Inc. Oceanic Oahu Central Cable System	)	
	)	FRN Nos. 0018049841, 0016034050
Cox Communications, Inc. Fairfax County, Virginia Cable System	)	

ORDER ON REVIEW

Adopted: June 15, 2009 **Released: June 26, 2009**

By the Commission: Commissioner McDowell approving in part, concurring in part, and issuing a statement.

I. INTRODUCTION

1. The Enforcement Bureau ("Bureau") initiated forfeiture proceedings in the above captioned matters against the cable operators Time Warner Cable, Inc. ("TWC") and Cox Communications, Inc. ("Cox") relating to their deployment of switched digital video ("SDV") technology to deliver programming that previously was delivered in another format.[1] TWC and Cox have filed Petitions for Reconsideration of the Bureau's Forfeiture Orders and Responses to the Bureau's Notices of

[1] *See Oceanic Time Warner Cable, a subsidiary of Time Warner Cable, Inc.*, Forfeiture Order, 24 FCC Rcd 960 (Enf. Bur. 2009) ("*LFA Notice Forfeiture Order*"); *Oceanic Time Warner Cable, a division of Time Warner Cable, Inc., Oceanic Oahu Central Cable System*, Forfeiture Order, 24 FCC Rcd 994 (Enf. Bur. 2009)("*Oceanic Oahu Central Forfeiture Order*"); *Oceanic Time Warner Cable, a division of Time Warner Cable, Inc., Oceanic Kauai Cable System*, Forfeiture Order, 24 FCC Rcd 1030 (Enf. Bur. 2009) ("*Oceanic Kauai Forfeiture Order*"); *Oceanic Time Warner Cable, a division of Time Warner Cable, Inc., Oceanic Oahu Central Cable System*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 964 (Enf. Bur. 2009) ("*Oceanic Oahu Refund Methodology NAL*"); *Oceanic Time Warner Cable, a division of Time Warner Cable, Inc., Oceanic Kauai Cable System*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 955 (Enf. Bur. 2009) ("*Oceanic Kauai Refund Methodology NAL*"); *Cox Communications, Inc., Fairfax County, Virginia Cable System*, Forfeiture Order, 24 FCC Rcd 1013 (Enf. Bur. 2009) ("*Cox Fairfax County Forfeiture Order*"); *Cox Communications, Inc., Fairfax County, Virginia Cable System*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 970 (Enf. Bur. 2009) ("*Cox Fairfax County Refund Methodology NAL*").

Apparent Liability.[2] Upon review of the arguments presented by TWC and Cox, the Bureau has determined that these issues merit additional review and, accordingly, has referred these matters to the Commission *en banc* for disposition.[3] As described below, based on our review of TWC and Cox's arguments and the facts presented, with one exception, we hereby vacate in their entirety the Bureau's previous Notices of Apparent Liability for Forfeiture and Forfeiture Orders relating to TWC and Cox's implementation of SDV.[4] We base this decision on a plain reading of our rules, the potential consumer benefits of SDV deployment, and other factors that limit the potential scope of consumer disruption. We affirm, however, the Forfeiture Order against TWC relating to the Bureau's finding that the migration of programming to an SDV platform constitutes a "change in service" requiring 30-day advanced written notice to the relevant local franchise authority ("LFA") pursuant to Section 76.1603 of our rules.[5]

II. BACKGROUND

2. The Bureau's prior decisions discuss the facts of these cases in depth; therefore, we will provide only a brief summary here. In late 2007, based on consumer complaints, the Bureau initiated investigations of TWC and Cox regarding their movement of certain cable channels that previously had been viewable by subscribers using CableCARD-equipped unidirectional digital cable products ("UDCPs"), such as digital cable ready television sets and digital video recorders (such as TiVo recorders), to a switched digital video ("SDV") platform. SDV permits video programming providers to free up capacity by moving certain channels to the SDV platform and transmitting the content only to subscribers who actually request it. This increased capacity has been used to launch new and niche programming services for consumers and will facilitate the deployment of advanced broadband capabilities. It will also facilitate compliance with the Commission's mandate that cable operators ensure that broadcast signals are viewable by all subscribers on their systems, given the additional broadcast carriage obligation cable systems face in light of the digital television transition.[6] Nevertheless, the movement of certain channels to SDV rendered the programming inaccessible to the relatively small percentage of subscribers using CableCARD-equipped UDCPs unless they leased a set-top box from the

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[2] *See Petition for Reconsideration of Time Warner Cable, Inc.*, (filed Feb. 18, 2009) ("*TWC Petition for Recon of LFA Notice Forfeiture Order*"); *Time Warner Cable Inc. Request for Stay Pending Resolution of Petition for Reconsideration* ("*TWC Stay Request of LFA Notice Forfeiture Order*"); *Petition for Reconsideration of Time Warner Cable Inc.* (filed Feb. 18, 2009) ("*TWC Petition for Recon*"); *Time Warner Cable Inc. Request for Stay Pending Resolution of Petition for Reconsideration* (filed Feb. 18, 2009) ("*TWC Stay Request*"); *Response to Notices of Apparent Liability and Request for Cancellation of Proposed Forfeitures*, filed by Time Warner Cable Inc., on behalf its Oceanic Time Warner Cable division (filed Feb. 18, 2009) ("*TWC NAL Response*"); *Petition for Reconsideration of Forfeiture Order*, filed by Cox Communications, Inc. ("*Cox Petition for Recon*") (filed Feb. 18, 2009); *Request for Stay*, filed by Cox Communications, Inc. (filed Feb. 18, 2009) ("*Cox Stay Request*"); and *Statement in Response to Notice of Apparent Liability*, filed by Cox Communications, Inc. (filed Feb. 18, 2009) ("*Cox NAL Response*").

[3] 47 C.F.R. § 1.106(a)(1).

[4] This Order on Review relates only to the Bureau's SDV investigation, which is separate from the digital migration investigation initiated by the Bureau on October 30, 2008 regarding cable operators' migrations of analog programming to digital tiers. *See generally* Amy Schatz and Vishesh Kumar, *FCC Opens Investigation into Cable-TV Pricing*, Wall St. J., Nov. 5, 2008, at B3.

[5] 47 C.F.R. § 76.1603. That rule requires cable operators to provide at least 30 days advance written notice to customers before making any "changes in rates, programming services or channel positions." *Id.* at §76.1603(b). Cable operators must give LFAs and customers at least 30 days advance written notice "before implementing any rate or service change." *Id.* at §76.1603(c).

[6] *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules,* Third Report and Order and Third Further Notice of Proposed Rulemaking, 22 FCC Rcd 21064, 21069-70 ¶¶ 15-16 (2007) ("*Viewability Order*").

cable operator or, in the case of TiVo customers, obtained a special tuning adapter.

3. On August 22, 2008, the Bureau issued a Notice of Apparent Liability for Forfeiture against TWC for its apparent failure to provide the Hawaii Department of Commerce and Consumer Affairs, Cable Television Division with at least 30 days advanced written notice before implementing a service change consisting of the migration of certain channels to an SDV platform on September 24, 2007.[7] On October 15, 2008, the Bureau issued additional Notices of Apparent Liability for Forfeiture against TWC and Cox finding that their migration of programming to an SDV platform in certain cable systems apparently violated Sections 76.1201 and 76.640(b) of the Commission's rules.[8] Section 76.1201 prohibits a Multichannel Video Programming Distributor ("MVPD") from preventing "the connection or use of navigation devices to or with its ... system, except in those circumstances where electronic or physical harm would be caused by the attachment or operation of such devices or such devices may be used to assist or are intended or designed to assist in the unauthorized receipt of services."[9] Section 76.640(b) sets forth technical specifications pursuant to which MVPDs must describe programming in the out-of-the-band forward data channel and provide a virtual channel table that conforms to certain standards set forth in Commission rules.[10]

4. In the *SDV NALs*, the Bureau proposed forfeitures against both companies, and ordered TWC and Cox to submit methodologies to the Bureau for the issuance of refunds to affected consumers. Once approved by the Bureau, the *SDV NALs* required TWC and Cox to use those methodologies to issue subscriber refunds.

5. TWC responded to the *LFA Notice NAL* contending that notice requirements under Section 76.1603(c) did not apply to its implementation of SDV because the movement of linear channels to an SDV platform did not involve a change in "service" or "rates" subject to the notice requirements under Section 76.1603.[11] TWC and Cox responded to the *SDV NALs*,[12] disputing the Bureau's interpretation of Section 629 of the Communications Act of 1934, as amended ("Act"),[13] and its interpretation of the Commission's rules and orders, and sought reconsideration of the Bureau's refund orders.[14] Both companies argued that neither Section 76.1201 nor Section 76.640(b) apply to the deployment of SDV technology, and that

[7] *See Oceanic Time Warner Cable, a subsidiary of Time Warner Cable, Inc.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 12804 (Enf. Bur. 2008) ("*LFA Notice NAL*") (subsequent history omitted).

[8] *See Oceanic Time Warner Cable, a division of Time Warner Cable, Inc., Oceanic Oahu Central Cable System*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 14981 (Enf. Bur. 2008) (subsequent history omitted); *Oceanic Time Warner Cable, a division of Time Warner Cable, Inc., Oceanic Kauai Cable System*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 14962 (Enf. Bur. 2008) (subsequent history omitted); *Cox Communications, Inc., Fairfax County, Virginia Cable System*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 14944 (Enf. Bur. 2008) (subsequent history omitted). We refer to these NALs collectively as the "*SDV NALs*."

[9] 47 C.F.R. § 76.1201.

[10] 47 C.F.R. § 76.640(b).

[11] *See Time Warner Cable, Inc. Response to NAL and Request for Cancellation of Forfeiture*, (filed Sept. 22, 2008) ("*Response to LFA Notice NAL*").

[12] *See* TWC Response to NAL and Request for Cancellation of Forfeiture (filed Nov. 14, 2008) ("*TWC SDV NAL Response*"); Cox Statement in Response to Notice of Apparent Liability and Order (filed Nov. 14, 2008) ("*Cox SDV NAL Response*").

[13] 47 U.S.C. § 549. Section 629 was adopted as part of the Telecommunications Act of 1996. Pub. L. No. 104-104, 110 Stat. 56 (1996).

[14] Petition for Reconsideration of Time Warner Cable, Inc. (filed Nov. 14, 2008) ("*TWC SDV Petition*"); Petition for Reconsideration of Cox Communications, Inc. (filed Nov. 14, 2008) ("*Cox SDV Petition*").

neither the Commission's rules nor the Commission's *Plug and Play Order*,[15] which requires cable operators to support UDCPs and ensure the utilization of such navigation devices, prohibit cable operators from developing and deploying new technology and services.[16] Both TWC and Cox stressed the importance of the deployment of SDV and its many public interest benefits, contending that use of this technology is pro-competitive and pro-consumer, allowing all customers to benefit from expanded program offerings, introduction of high-definition ("HD") programming and faster broadband service.[17] Further, the companies stated that the number of customers affected by the deployment of SDV is relatively small compared to the companies' overall subscriber base[18] and provided details on plans to deploy tuning adapters that would provide this small group of customers with access to the SDV platform.[19]

6. On January 19, 2009, the Bureau issued a Forfeiture Order against TWC for violating Section 76.1603(c) of the Commission rules by failing to provide timely notice to the LFA of the operator's change in service due to the movement of certain linear channels to the SDV platform.[20] The Bureau also issued Forfeiture Orders against TWC and Cox for violating Commission rules by migrating programming to an SDV platform in certain cable systems.[21] In response to TWC and Cox's failure to propose a refund methodology, the Bureau established a formula and ordered the companies to issue refunds within a specified period.[22] The Bureau proposed additional forfeitures against TWC and Cox for failing to comply with the Bureau's refund orders.[23]

7. TWC and Cox responded to the Bureau's January 19, 2009 orders. Specifically, TWC filed a Petition for Reconsideration and Request for Stay of the Bureau's Forfeiture Order finding TWC liable for failure to give advanced written notice to the LFA of a change in service due to the deployment of SDV.[24] In addition, TWC and Cox filed Petitions for Reconsideration and Requests for Stay of the Bureau's

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[15] *Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, Compatibility Between Cable Systems and Consumer Electronics Equipment*, Second Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 20885 (2003) ("*Plug and Play Order*"). "The term 'plug and play' refers to a device's ability to plug into a cable system and receive digital cable programming without a cable-operator provided set-top box." *Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, Compatibility Between Cable Systems and Consumer Electronics Equipment*, Third Further Notice of Proposed Rulemaking, 22 FCC Rcd 12024, 12025, n.9 (2007).

[16] *See, e.g., TWC SDV NAL Response* at 3-4, 13, 20; *Cox SDV NAL Response* at 10-11.

[17] *See, e.g., TWC SDV NAL Response* at 7-8; *Cox SDV NAL Response* at 2-4. TWC also noted the importance of SDV in allowing it to broadcast signals in both analog and digital format, thus minimizing the impact of the digital transition on many customers. *TWC SDV NAL Response* at 2, 7-8.

[18] *TWC SDV NAL Response* at 9 (noting that the group of such customers in its Hawaii Division numbers 0.0004 percent of the overall subscriber base); *Cox SDV NAL Response* at 3 (noting that the percentage of subscribers using UDCPs with CableCARDs was 0.6% of its Fairfax County subscriber base).

[19] *TWC SDV NAL Response* at 11; *Cox SDV NAL Response* at 15.

[20] *See Oceanic Time Warner Cable, a subsidiary of Time Warner Cable, Inc.*, Forfeiture Order, 24 FCC Rcd 960 (Enf. Bur. 2009) ("*LFA Notice Forfeiture Order*").

[21] *See Oceanic Oahu Central Forfeiture Order*, 24 FCC Rcd 994; *Oceanic Kauai Forfeiture Order*, 24 FCC Rcd 1030; *Cox Fairfax County Forfeiture Order*, 24 FCC Rcd 1013.

[22] *See Oceanic Oahu Central Forfeiture Order*, 24 FCC Rcd at 1011; *Oceanic Kauai Forfeiture Order*, 24 FCC Rcd at 1047; *Cox Fairfax County Forfeiture Order*, 24 FCC Rcd at 1027-28.

[23] *See Oceanic Oahu Refund Methodology NAL*, 24 FCC Rcd 964; *Oceanic Kauai Refund Methodology NAL*, 24 FCC Rcd 955; *Cox Fairfax County Refund Methodology NAL*, 24 FCC Rcd 970.

[24] *See TWC Petition for Recon of LFA Notice Forfeiture Order*; *TWC Stay Request of LFA Notice Forfeiture Order*.

Forfeiture Orders relating to the migration of programming to an SDV platform.[25] Both companies also requested, and the Bureau granted,[26] a stay of the effectiveness of the Bureau orders that TWC and Cox issue refunds to consumers affected by the companies' SDV deployments.[27] Finally, TWC and Cox challenged the Bureau's proposed forfeitures for failing to comply with the Bureau's order to submit a methodology for the issuance of refunds to consumers affected by the SDV deployments.[28]

III. DISCUSSION

8. We have carefully reviewed the arguments proffered by the parties and the record developed in these proceedings. Upon review, we find that the deployment of SDV does not violate Section 76.1201 or Section 76.640(b) of our rules. We also find, however, that Section 76.1603(c) of our rules requires cable operators migrating existing programming to an SDV platform to provide 30 days advance written notice to affected LFAs and subscribers.

A. The Migration of Programming to a Switched Digital Video Platform Does Not Violate Section 76.1201 or Section 76.640(b) of the Commission's Rules

9. Section 76.1201 prohibits an MVPD from "prevent[ing] the connection or use of navigation devices to or with its system" unless such devices would cause electronic or physical harm or allow the unauthorized receipt of service.[29] In adopting this rule, the Commission sought to advance Congress' goal to assure the commercial availability of "converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor."[30] Subsequently, in the *Plug and Play Order*, the Commission adopted additional rules, including Section 76.640, requiring that cable operators support the operation of UDCPs in connection with their cable systems.[31]

10. The Bureau described SDV and the effect of its deployment on CableCARD-equipped UDCPs as follows:

> Traditionally, cable systems have used broadcast-type technologies that deliver all programs to all subscribers whether the subscribers view the programs or not. The programs not viewed nonetheless occupy system bandwidth (which prevents the use of that bandwidth for any other purpose). Many cable operators, however, have begun to test and deploy SDV technology in their cable systems. In an SDV system, a subset of programming is delivered in the traditional way to all subscribers whether they are viewing the programs or not. For those channels, the CableCARD-equipped UDCP will work as described above, allowing the subscriber to view the channels delivered in the traditional broadcast manner. The remaining channels are switched through the use of SDV network equipment located at a "hub" (where signals are converted and placed onto the "last mile" coaxial portion of the network). These switched channels do not occupy bandwidth, and

[25] *See TWC Petition for Recon*; *TWC Stay Request*; *Cox Petition for Recon*; *Cox Stay Request*.

[26] *See Oceanic Time Warner Cable, a division of Time Warner Cable, Inc. et al.*, Order, DA 09-752 (Enf. Bur. rel. April 14, 2009).

[27] *TWC Stay Request* at 1-2; *Cox Stay Request* at 1.

[28] *See TWC NAL Response* at 2; *Cox NAL Response* at 2.

[29] 47 C.F.R. § 76.1201.

[30] 47 U.S.C. § 549(a); *see also Navigation Devices Order,* 13 FCC Rcd at 14777-78.

[31] *See Plug and Play Order*, 18 FCC Rcd at 20891.

are not available to subscribers until a subscriber tunes to that channel by sending a request, using a remote or program guide, upstream through the use of a set-top box to the hub. At the hub, the SDV equipment directly receives and processes set-top channel change requests for switched content and responds to that set-top with the frequency and program number where that content can be found. Once the hub receives the request, it immediately begins to transmit the channel. A customer who uses a CableCARD-equipped UDCP to receive programming must have additional equipment with the necessary upstream signaling capability to obtain the switched (*i.e.*, bi-directional) channels. The UDCP cannot perform the bi-directional functions necessary to request that a channel be delivered via SDV. Nor can the CableCARD, which is designed only to provide the separate security element, provide the necessary interface needed to send the signal to the SDV server. Thus, in essence, in an SDV system, all subscribers must have a cable-operator supplied set-top box to view channels placed on the SDV platform.[32]

11. We find that the plain language of Section 76.1201 is not consistent with the Bureau's finding that the deployment of SDV by TWC and Cox "prevented" subscribers with CableCARD-equipped UDCPs from connecting or using their navigation devices on their systems. CableCARD-equipped UDCP customers are still able to access unidirectional programming services in an SDV system. Our UDCP rules were not intended to provide access to bi-directional services or to freeze all one-way cable programming services in perpetuity.[33] CableCARD-equipped UDCP customers may continue to use their UDCPs to receive unidirectional programming services without an additional set-top box. Thus, we find that the migration of cable programming services to an SDV platform does not "prevent" the use of UDCP devices as that term is used in Section 76.1201. We emphasize, however, that while one-way cable programming may be converted to a two-way platform without violating our plug-and-play rules, these rules continue to require cable systems to provide any one-way programming in a format compatible with UDCP devices.

12. Similarly, with respect to the Bureau's findings regarding the application of Section 76.640(b) to TWC and Cox's SDV deployments, we conclude that the technical standards incorporated by reference into that rule do not apply to two-way services like SDV. Rather, they apply only to services that are "offered" to the unidirectional host – not every channel or service on a network.[34] Those technical specifications also provide for channels that are not made available to a host to be hidden from a user. Because two-way services like SDV are not "offered" to UDCPs, information regarding such services need not be included in the virtual channel table. Thus, failing to provide virtual channel table data for channels that are not offered to or supported by UDCPs is not a violation of Section 76.640(b).[35]

13. While we find that the plain language of Sections 76.1201 and 76.640(b) is determinative, we also find that there are significant consumer benefits of SDV deployment that weigh

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[32] *Oceanic Oahu Central Forfeiture Order*, 24 FCC Rcd at 997; *Oceanic Kauai Forfeiture Order*, 24 FCC Rcd at 1033; *Cox Fairfax County Forfeiture Order*, 24 FCC Rcd at 1016.

[33] Indeed, the Commission requires that cable system operators inform consumers, at the time they subscribe and annually thereafter, "that some models of TV receivers and videocassette recorders may not be able to receive all of the channels offered by the cable system when connected directly to the cable system," and further, that "the use of a cable system terminal device such as a set-top channel converter" could be needed to resolve an incompatibility. 47 C.F.R. § 76.1622(a)(1).

[34] ANSI/SCTE 40(2003); *see TWC Petition for Recon* at 17.

[35] Sec. 76.640(b) and the standards incorporated by reference therein address technical transmission requirements for UDCP devices. Our conclusions herein are limited to that issue alone and do not reflect a view on other issues pending before the Commission (*e.g.*, the definition of a "digital cable system").

against a broader reading of our rules.[36] As noted earlier, the increased capacity enabled by SDV will facilitate cable operator compliance with the Commission's "viewability" rules—which require cable operators to transmit both analog and digital versions of broadcast channels—without displacing substantial amounts of existing programming.[37] SDV has also permitted the launch of new HD channels and the introduction of diverse and niche programming options, including foreign-language content and other diverse programming.[38] In addition, the additional capacity will facilitate the deployment of advanced broadband technologies such as DOCSIS 3.0, as well as expand broadband capabilities.[39] Indeed, many of cable's competitors currently rely on SDV to provide expanded offerings to consumers.[40] The Bureau's expansive reading of Sections 76.1201 and 76.640(b) failed to adequately account for these significant consumer benefits.[41]

14. We do recognize, as the Bureau found, that implementation of SDV may have a disruptive effect on the relatively small percentage of consumers who use CableCARD-equipped UDCPs.[42] Again, however, that negative impact must be considered in the context of our rules and the consumer benefits of SDV described above. In addition, the potential disruption may be limited because: (1) the more popular cable channels are not prime candidates for SDV migration because cable operators only free up capacity to the extent that subscribers do not request a particular channel at a particular time; (2) market demand for UDCPs is not strong and consumers with TiVo UDCP devices can use the tuning adapter to access SDV programming;[43] and (3) bi-directional devices that will work with SDV content are

[36] *TWC Petition for Recon* at 2-3; *Cox Petition for Recon* at 6.

[37] *See TWC Petition for Recon* at 2-3 (citing *Viewability Order,* 22 FCC Rcd 21064). Individual Commissioners have recognized the benefits that SDV technology may provide to consumers and encouraged the development of new technologies that would bring about expansion and improvements in services. *See* Separate Statement of Commissioner Jonathan S. Adelstein, Approving in Part, Dissenting in Part, *id.* at 21128 ("We encourage cable operators to upgrade their systems and deploy solutions, such as switched digital, QAM or IPTV, to increase system capacity for more channels, enhanced services and faster broadband speeds. Such technological innovations promote efficient network management and the greater diversity of programming."); Separate Statement of Commissioner Deborah Taylor Tate, *id.* at 21130 ("Developments in new compression technology, such as switched digital, allow cable operators to conserve valuable spectrum while providing quality video service."); Separate Statement of Commissioner Robert M. McDowell, *id.* at 21131 ("The standard we reaffirm today will permit cable operators to take advantage of technological innovations, such as switched digital and advanced compression technologies, to continue providing service to consumers with greater efficiency.").

[38] For instance, as a result of bandwidth capacity reclaimed by the implementation of SDV, Cox recently added 24 new HD channels and 27 new SD channels to its Fairfax, Virginia lineup. *See Cox Petition for Recon* at 6. In the year since it introduced SDV in the Hawaii divisions at issue here, TWC has added nine HD linear channels, including one broadcast HD channel. In addition TWC states in other divisions across the country it has now launched ESPN2 HD, the Food Channel HD, and HGTV HD. *See TWC SDV NAL Response* at 18-19. In its Austin, Texas cable system, TWC added Canal24, DocuTVE, Toon Disney Spanish, Cartoon Spanish, Boomerang Spanish, ESPN Deportes, TVE International, La Familia, Infinito, and Deutsche Welle to its cable lineup. *See* Time Warner Cable LOI Response at 12 (filed November 30, 2007).

[39] *See, e.g., TWC Petition for Recon* at 2-3; *Cox Petition for Recon* at 4, 6-7.

[40] AT&T's U-Verse platform, for instance, uses SDV to provide a range of programming and other digital services. *See* Alan Breznick, *Cable Technologists Fear Bell IPTV, Web Video, Peer-to-Peer*, COMMUNICATIONS DAILY, Jan. 17, 2006, at 6 (stating that "telco IPTV is switched digital by nature").

[41] *See, e.g., TWC Petition for Recon* at 2-3; *Cox Petition for Recon* at 6-7.

[42] *See supra* note 17.

[43] Todd Spangler, *Set-Tops Break Free*, MULTICHANNEL NEWS, April 27, 2009 at 8 ("[C]onsumers have been able to buy TiVo DVRs and plug in cable company-supplied CableCards to get their standard cable lineup. But to date, CableCard-based retail devices have proven to be very unpopular in the market.").

beginning to be introduced in the marketplace.[44] We further note that TWC and Cox have sought to minimize the inconvenience associated with SDV migrations by offering set-top boxes to subscribers with UDCP devices at reduced rates for a limited period.[45] In addition, TWC has offered customers free tuning adapters, which allow TiVo UDCPs to access SDV programming without a set-top box.[46]

15. For the above reasons, we find that TWC's and Cox's migration of programming to an SDV platform did not violate Sections 76.1201 and 76.640(b) of the Commission's rules, and we vacate the Bureau's previous decisions proposing and instituting forfeitures against TWC and Cox related to their deployment of SDV.[47]

B. Cable Operators Must Provide 30 Days Advance Written Notice to Relevant Local Franchising Authorities Before Migrating Programming to a Switched Digital Video Platform

16. We also have before us TWC's Petition for Reconsideration of the Bureau's *LFA Notice Forfeiture Order* finding that TWC failed to provide the requisite 30-day advance written notice required under Section 76.1603(c) of the Commission's rules to the Hawaii LFA before implementing a service change caused by the migration of certain channels to its SDV platform.[48] Section 76.1603(c) requires cable systems to "give 30 days written notice to both subscribers and local franchising authorities before implementing any rate or service change."[49] As in its *Response to LFA Notice NAL*, TWC challenges the Bureau's finding that the migration of programming to an SDV platform constitutes a service change that triggers the notice requirements of Section 76.1603(c) of the rules.[50] TWC argues that the Bureau erred in its assertion that the deployment of SDV resulted in the elimination of channels from the subscribers' perspective, contending that "the introduction of SDV was transparent to all but a tiny portion of TWC's subscriber base" and that "[t]his cannot reasonably be characterized as a change in service or the 'elimination' of channels 'from the subscribers' perspective.'"[51] TWC maintains this is a situation where a particular category of individual subscribers are required to obtain additional equipment to access particular channels, and argues there is no Commission support for the Bureau's application of Section 76.1603(c) to such a situation.[52] TWC contends that the case cited by the Bureau – where TWC

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[44] Bi-directional navigation devices that will work with SDV content are beginning to be introduced in the marketplace. *See* Jeff Baumgartner, "Denver, Chicago First to Get Tru2Way TVs, Light Reading's Cable Digital News, Oct. 15, 2008 available at http://www.lightreading.com/document.asp?doc_id=166014&site=cdn. In addition, TWC states that it has already begun rolling out tru2way technology at headends throughout its digital base. *See* Letter from Matthew A. Brill, Esq., Counsel for Time Warner Cable, Inc., to Kris Monteith, Chief, Enforcement Bureau, Federal Communications Commission, dated March 6, 2009 at 2 ("*Brill Letter*").

[45] *See Brill Letter* at 1-2; *TWC Petition for Recon* at 9; *Cox Petition for Recon* at 6.

[46] *Brill Letter* at 1.

[47] Because we vacate our previous orders for the reasons stated above, we need not reach the parties' other arguments.

[48] *TWC Petition for Recon of LFA Notice Forfeiture Order.*

[49] 47 C.F.R. §76.1603(c).

[50] *TWC Petition for Recon of LFA Notice Forfeiture Order* at 6; *see also Response to LFA Notice NAL* at 5.

[51] *TWC Petition for Recon of LFA Notice Forfeiture Order* at 7; *see also Response to LFA Notice NAL* at 7. TWC argues that the "deployment of SDV had no effect on the number or placement of channels that TWC delivered to its subscribers or on any other aspect of the service TWC provides." *TWC Petition for Recon of LFA Notice Forfeiture Order* at 6. Rather, TWC contends "the same channels continue to be part of the same service tiers, available on the same channel numbers and at the same prices, both before and after the introduction of SDV." *Id.*; *see also Response to LFA Notice NAL* at 5.

[52] *TWC Petition for Recon of LFA Notice Forfeiture Order* at 7-8; *see also Response to LFA Notice NAL* at 6.

discontinued carriage of the NFL Network resulting in the deletion of a channel from its lineup[53] – is not on point because the change in service in that case affected "not . . . a mere handful of customers, but . . . TWC's overall subscriber base."[54]

17. Further, TWC claims that in a Commission decision addressing the notice obligations of cable operators in transitioning to all-digital systems,[55] which would require all analog customers to obtain a set-top box to view all former analog services, and in subsequent related decisions granting waivers of Section 76.1204(a)(1) to cable operators to transition their system to all-digital operations,[56] the Commission required operators to give notice to subscribers but "conspicuously omitted any suggestion that notice to LFAs was required."[57] TWC states that it routinely shares information with LFAs, particularly with respect to developments like SDV, and argues that the notice requirements in Section 76.1603(c) were adopted to implement the rate provisions under Section 623 of the Act. Given that there are no rate change issues here, according to TWC, the LFA has no need to receive notice.

18. TWC contends that, pursuant to 47 U.S.C. § 544(e), LFAs do not have authority to regulate deployment of SDV technology, and thus finds it "unclear what could be gained by formal written notice to the LFA."[58] Finally, TWC asserts that the Bureau cannot bootstrap from the consumer interest in receiving notice to impose a requirement on the operator that LFAs receive notice.[59] In this respect, TWC argues that if the Commission believes there is good reason to impose on cable operators (and other MVPDs) a requirement that LFAs be notified about the implementation of a new technology, the proper course is to initiate a rulemaking proceeding so all interested parties can be heard, rather than initiating enforcement proceedings that are inappropriate, arbitrary and capricious.[60]

19. TWC presents no new arguments and we find no reason to reverse the Bureau's finding that 30-day advance written notice to the relevant LFA was required in this case. The notice requirements in Section 76.1603(c) are designed to protect subscribers.[61] Providing advance notice to LFAs furthers this

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[53] *Time Warner Cable, a Division of Time Warner Entertainment Company, L.P.*, Order on Reconsideration, 21 FCC Rcd 9016 (Media Bur.) ("*Time Warner Reconsideration Order*"), *consent decree adopted*, Order, 21 FCC Rcd 11229 (Media Bur. 2006).

[54] *TWC Petition for Recon of LFA Notice Forfeiture Order* at 7; *see also Response to LFA Notice NAL* at 6.

[55] *Viewability Order*, 22 FCC Rcd 21064.

[56] *See, e.g., Mediacom Communications Corp. and Bresnan Communications, LLC, Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices*, Memorandum Opinion and Order, 23 FCC Rec 6506 ¶ 1 (Media Bur. 2008); *Millennium Telcom LLC d/b/a OneSource Communications, Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, Memorandum Opinion and Order, 22 FCC Rcd 8567 ¶ 18 (Media Bur. 2007); *TWC Petition for Recon of LFA Notice Forfeiture Order* at 8 (*citing Bend Cable Communications LLC d/b/a BendBroadband Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules; Implementation of Section 304 of the Telecommunications Act of 1996 Commercial Availability of Navigation Devices*, Memorandum Opinion and Order, 22 FCC Rcd 209 ¶ 21 (Media Bur. 2007); *see also Response to LFA Notice NAL* at 10.

[57] *TWC Petition for Recon of LFA Notice Forfeiture Order* at 8-9; *see also Response to LFA Notice NAL* at 10.

[58] *TWC Petition for Recon of LFA Notice Forfeiture Order* at 9-10; *see also Response to LFA Notice NAL* at 9.

[59] *TWC Petition for Recon of LFA Notice Forfeiture Order* at 10; *see also Response to LFA Notice NAL* at 9.

[60] *TWC Petition for Recon of LFA Notice Forfeiture Order* at 11; *see also Response to LFA Notice NAL* at 10-11.

[61] *See Time Warner Reconsideration Order*, 21 FCC Rcd at 9020 ("[W]e also reject the company's interpretation of section 76.1603(b) on the merits. Because section 76.1603(b) is aimed at protecting subscribers, it is the subscribers' perspective -- not that of the cable operator -- that is relevant to determining whether a change in programming services has occurred."). Although the Media

objective by enabling LFAs to respond to any questions or complaints from subscribers in an informed manner. The rule on its face applies to "any changes" in service; it requires advance written notice to the LFA and affected subscribers without regard to the number or ratio of subscribers affected by the service change.[62]

20. Moreover, as the Bureau previously held, TWC's argument that the deployment of SDV does not constitute a service change is contradicted by both the facts and the company's description of the practical effect of SDV deployment on CableCARD-equipped UDCP customers. As the *LFA Notice NAL* pointedly observes, TWC's deployment of SDV "rendered inaccessible dozens of cable channels previously available on CableCARD-equipped UDCPs."[63] Similarly, the *LFA Notice Forfeiture Order* concludes that "[f]rom the perspective of the complainants, it is clear that they viewed the elimination of access to dozens of channels, including popular high-definition programming, as a 'change in service.'"[64] Furthermore, the Bureau previously noted that TWC's own characterization of SDV deployment expressly acknowledged that CableCARD-equipped UDCPs receive one-way cable services and will not receive two-way cable services such as switched digital services.[65] Thus, deployment of SDV was a service change that triggered the notice rule. We disagree with TWC that notification to subscribers through an after-the-fact annual equipment compatibility notice would suffice here.

21. We disagree with TWC's claim that, because the *Viewability Order* failed to specify the subsection of the applicable LFA notice rule in a decision relating to the operator's obligation to provide notice in advance of transitioning to an all digital system, the LFA notice requirements do not apply to SDV deployments. As the Bureau properly recognized, "[i]n that decision, the Commission advised cable operators that such actions were subject to the notice requirements in both the annual equipment notice rule (Section 76.1622) and Section 76.1603," noting that "although the Commission was discussing notice to subscribers in the relevant passage, it cited to Section 76.1603 as a whole, and did not distinguish the LFA notice language."[66] Nor do we find merit in TWC's argument that the absence of a condition to notify the LFA in a waiver grant indicates that the LFA notice rule requirement for changes in service is inapplicable here. To the contrary, we find TWC's reading of these decisions in this manner at odds with the most natural interpretation of the rule itself. None of the examples cited by TWC exempted cable operators from complying with the LFA notice requirement in Section 76.1603(c).

22. We also reject TWC's contention that Section 76.1603(c) does not apply because it was implemented pursuant to the rate provisions of Section 623 of the Act. According to TWC, in the absence of rate regulation or a rate change, there is no reason why the LFA should receive notice. That interpretation is contrary to the express language of the rule, which is not limited to rate changes. Regardless of whether a cable system is subject to rate regulation, Section 76.1603(c) requires a cable operator to provide "30 days written notice to both subscribers and local franchising authorities before

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Bureau was discussing Section 76.1603(b) in this decision, the same reasoning applies to Section 76.1603(c).

[62] In any event, TWC deprived more than 350 of its Hawaii customers of access to dozens of channels by switching to the SDV platform without providing notice to the affected LFA. *See* Time Warner Cable Supplemental LOI Response, dated September 12, 2008, at Exhibit A. That is not a trivial number of adversely affected customers.

[63] *LFA Notice NAL*, 23 FCC Rcd at 12806.

[64] *LFA Notice Forfeiture Order*, 24 FCC Rcd at 961. We note that defining a change in service solely from the perspective of a cable operator would permit such entities to deliver all programming services via a transmission technology that is incompatible with subscriber equipment without providing the 30-day notice to subscribers required by Section 76.1603(b).

[65] *LFA Notice NAL*, 23 FCC Rcd at 12806.

[66] *LFA Notice Forfeiture Order* 24 FCC Rcd at 961, n.13.

implementing any rate *or service change*."[67] As noted by the Bureau, TWC's preferred construction of the rule would obviate notice to both LFAs *and* consumers in non rate-regulated areas and, furthermore, would do so in an ever-increasing number of areas across the nation.[68] Moreover, requiring notice to LFAs serves a broader purpose than facilitating their rate regulation responsibilities.

23. Finally, we find no merit in TWC's argument that nothing can be gained from requiring Section 76.1603(c) notice to LFAs in this instance because 47 U.S.C. § 544(e) provides that no LFA may "prohibit, condition, or restrict a cable system's use of any type of subscriber equipment or any transmission technology." TWC fails to demonstrate how the notice requirement of Section 76.1603 (c) affects a prohibition, condition, or restriction on its use of the SDV platform. Rather, notice to LFAs enables these jurisdictions to not only respond to customer complaints in a more informed manner, but also enables them to consider other methods of responding that are expressly reserved under the Act.[69] Section 76.1603 in no way contravenes the prohibition set forth in 47 U.S.C. § 544(e).

24. Based on the foregoing, we affirm the Bureau's previous decision instituting a forfeiture against TWC for failure to provide the requisite thirty (30) day advance written notice to the Hawaii LFA before implementing a service change caused by the migration of certain channels to its SDV platform.[70] The Bureau should continue to investigate complaints from consumers and local franchising authorities alleging that cable operators have not complied with the applicable notice requirements. Where it determines that those requirements have been violated, the Bureau should take appropriate enforcement action.

IV. ORDERING CLAUSES

25. ACCORDINGLY, IT IS ORDERED, that pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §154(i), that the *Oceanic Oahu Central Forfeiture Order, Oceanic Kauai Forfeiture Order, Oceanic Oahu Refund Methodology NAL*, *Oceanic Kauai Refund Methodology NAL, Cox Fairfax County Forfeiture Order*, and *Cox Fairfax County Refund Methodology NAL* as cited in Footnote 1 of this Order on Review are VACATED and the *TWC Petition for Recon, TWC NAL Response, Cox Petition for Recon* and *Cox NAL Response* filed on February 18, 2009, as cited in Footnote 2 of this Order on Review are GRANTED.

26. IT IS FURTHER ORDERED, that pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §154(i), that the *LFA Notice Forfeiture Order* as cited in Footnote 1 of this Order on Review is AFFIRMED and the *TWC Petition for Recon of LFA Notice Forfeiture Order* and *TWC Stay Request of LFA Notice Forfeiture Order* filed on February 18, 2009, as cited in Footnote 2 of the Order on Review are DENIED.

27. IT IS FURTHER ORDERED that a copy of this Order on Review shall be sent Certified Mail, Return Receipt Requested, to Matthew A. Brill, Latham & Watkins LLP, 555 11th Street, N.W., Suite 1000, Washington, DC 20004 and Arthur H. Harding, Fleischman & Harding LLP, 1255 23rd Street, N.W., Eighth Floor, Washington, DC 20037, counsel for Time Warner Cable, Inc., and Kathleen

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[67] 47 C.F.R. §76.1603(c) (emphasis added).

[68] In the instant cases, both TWC and Cox provided appropriate 30-day advance written notice to their customers about the changes in service due to the deployment of SDV.

[69] *See, e.g.*, 47 U.S.C. § 552 (d)(1) ("Nothing in this title shall be construed to prevent any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted by this title.")

[70] Because we affirm the Bureau's *LFA Notice Forfeiture Order*, we deny the *TWC Stay Request of LFA Notice Forfeiture Order*.

Q. Abernathy, Wilkinson Barker Knauer, LLP, 2300 N Street, N.W., Suite 700, Washington, DC 20037, counsel for Cox Communications, Inc.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

STATEMENT OF COMMISSIONER ROBERT M. MCDOWELL

APPROVING IN PART AND CONCURRING IN PART

Re: In the Matter of Oceanic Time Warner Cable, a subsidiary of Time Warner Cable, Inc.; Oceanic Time Warner Cable, a division of Time Warner Cable, Inc., Oceanic Kauai Cable System; Oceanic Time Warner Cable, a division of Time Warner Cable, Inc., Oceanic Oahu Central Cable System; Cox Communications, Inc., Fairfax County, Virginia Cable System; File Nos. EB-07-SE-351, EB-07-SE-352; NAL/Acct. Nos. 200832100074, 200932100001, 200932100002, 200932100003, 200932100008, 200932100022, and 200932100023; *Order on Review*

The Commission through this Order appropriately determines that the migration of programming to a switched digital video ("SDV") platform does not violate Sections 76.1201 or 76.640(b) of our rules. Deployment of SDV technology to deliver video programming is consistent with the plain language of the regulations. It also can serve the public interest by allowing cable operators to comply with the Commission's "viewability" rules and deliver more programming options, including HD channels and niche programming, without displacing significant numbers of existing channels.

I only concur, however, with respect to the determination that the SDV deployment requires notification to local franchising authorities and customers. Whether the SDV deployment here – because of its effect on the channels accessible to certain subscribers who purchased unidirectional digital cable devices on their own in the retail market – constitutes a "change in service" requiring notice under Section 76.1603(c) is not without some doubt. Nevertheless, the broader ramifications of our decision here for the industry's deployment of SDV technology, which has largely been on hold since the enforcement proceedings became public, justify resolution of these issues now.

EXHIBIT D

Charter Trending Schedule, Q1 2014 through Q3 2016

Charter Communications, Inc.
Pro Forma Customer Metrics
(in thousands except ARPU and penetration, unaudited)

EXHIBIT D

	2014					2015					2016		
	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q
Footprint (a)													
Estimated Video Passings	47,374	47,479	47,780	47,852	47,852	47,959	48,093	48,223	48,375	48,375	48,561	48,762	49,001
Estimated Internet Passings	46,966	47,078	47,378	47,487	47,487	47,593	47,733	47,866	48,019	48,019	48,209	48,414	48,689
Estimated Voice Passings	46,071	46,186	46,495	46,621	46,621	46,734	46,869	46,997	47,164	47,164	47,339	47,566	47,854
Penetration Statistics (b)													
Video Penetration of Estimated Video Passings	37.9%	37.2%	36.5%	36.5%	36.5%	36.4%	36.0%	35.9%	36.0%	36.0%	35.9%	35.5%	35.3%
Internet Penetration of Estimated Internet Passings	39.8%	39.8%	40.1%	40.8%	40.8%	41.8%	42.0%	42.7%	43.7%	43.7%	44.7%	45.1%	45.6%
Voice Penetration of Estimated Voice Passings	19.2%	19.3%	19.3%	20.1%	20.1%	20.9%	21.4%	21.9%	22.5%	22.5%	23.0%	23.1%	23.1%
Customer Relationships (c)													
Residential	22,794	22,659	22,696	22,868	22,868	23,182	23,201	23,436	23,795	23,795	24,180	24,306	24,551
Small and Medium Business	1,035	1,070	1,100	1,127	1,127	1,152	1,187	1,221	1,256	1,256	1,286	1,333	1,367
Total Customer Relationships	23,829	23,729	23,796	23,995	23,995	24,334	24,388	24,657	25,051	25,051	25,466	25,639	25,918
Residential													
Primary Service Units ("PSU")													
Video	17,623	17,339	17,121	17,114	17,114	17,134	16,964	16,944	17,062	17,062	17,086	16,934	16,887
Internet	17,820	17,856	18,058	18,401	18,401	18,890	19,047	19,416	19,911	19,911	20,431	20,667	21,017
Voice	8,350	8,388	8,430	8,815	8,815	9,185	9,399	9,655	9,959	9,959	10,172	10,255	10,288
	43,793	43,583	43,609	44,330	44,330	45,209	45,410	46,015	46,932	46,932	47,689	47,856	48,192
Net Additions/(Losses)													
Video	(19)	(284)	(218)	(7)	(528)	20	(170)	(20)	118	(52)	24	(152)	(47)
Internet	460	36	202	343	1,041	489	157	369	495	1,510	520	236	350
Voice	187	38	42	385	652	370	214	256	304	1,144	213	83	33
	628	(210)	26	721	1,165	879	201	605	917	2,602	757	167	336
Single Play (g)	8,667	8,615	8,652	8,617	8,617	8,696	8,716	8,809	8,883	8,883	9,088	9,252	9,447
Double Play (g)	7,256	7,166	7,175	7,040	7,040	6,946	6,759	6,674	6,687	6,687	6,675	6,559	6,569
Triple Play (g)	6,871	6,878	6,869	7,211	7,211	7,540	7,726	7,953	8,225	8,225	8,417	8,495	8,535
Single Play Penetration (h)	38.0%	38.0%	38.1%	37.7%	37.7%	37.5%	37.6%	37.6%	37.3%	37.3%	37.6%	38.1%	38.5%
Double Play Penetration (h)	31.8%	31.6%	31.6%	30.8%	30.8%	30.0%	29.1%	28.5%	28.1%	28.1%	27.6%	27.0%	26.8%
Triple Play Penetration (h)	30.1%	30.4%	30.3%	31.5%	31.5%	32.5%	33.3%	33.9%	34.6%	34.6%	34.8%	35.0%	34.8%
% Residential Non-Video Customer Relationships	22.7%	23.5%	24.6%	25.2%	25.2%	26.1%	26.9%	27.7%	28.3%	28.3%	29.3%	30.3%	31.2%
Monthly Residential Revenue per Residential Customer (d)	$ 105.39	$ 106.80	$ 106.54	$ 106.51	$ 106.33	$ 107.40	$ 108.59	$ 107.70	$ 108.20	$ 107.97	$ 109.00	$ 109.73	$ 109.69
Small and Medium Business													
PSUs													
Video	324	331	335	337	337	340	347	354	361	361	369	378	388
Internet	868	901	931	957	957	981	1,014	1,045	1,078	1,078	1,107	1,148	1,185
Voice	497	525	546	567	567	588	617	643	667	667	693	725	751
	1,689	1,757	1,812	1,861	1,861	1,909	1,978	2,042	2,106	2,106	2,169	2,251	2,324
Net Additions/(Losses)													
Video	3	7	4	2	16	3	7	7	7	24	8	9	10
Internet	26	33	30	26	115	24	33	31	33	121	29	41	37
Voice	24	28	21	21	94	21	29	26	24	100	26	32	26
	53	68	55	49	225	48	69	64	64	245	63	82	73
Monthly Small and Medium Business Revenue per Customer (e)	$ 200.37	$ 202.91	$ 206.34	$ 208.69	204.40	$ 209.19	$ 211.14	$ 212.26	$ 212.51	211.26	$ 212.16	$ 214.62	$ 214.64
Enterprise PSUs (f)													
Enterprise PSUs	58	62	66	69	69	71	74	77	81	81	85	90	93

All percentages are calculated using whole numbers. Minor differences may exist due to rounding.
See footnotes on page 9.

Charter Communications, Inc.
Legacy TWC Customer Metrics
(in thousands except ARPU and penetration, unaudited)

EXHIBIT D

	2014					2015					2016		
	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q
Footprint (a)													
Estimated Video Passings	30,030	30,111	30,393	30,453	30,453	30,537	30,642	30,741	30,863	30,863	30,967	31,091	31,218
Estimated Internet Passings	29,950	30,032	30,313	30,375	30,375	30,453	30,565	30,664	30,787	30,787	30,893	31,017	31,135
Estimated Voice Passings	29,544	29,616	29,907	29,969	29,969	30,047	30,153	30,247	30,385	30,385	30,473	30,596	30,720
Penetration Statistics (b)													
Video Penetration of Estimated Video Passings	37.8%	37.2%	36.3%	36.1%	36.1%	36.1%	35.8%	35.7%	35.8%	35.8%	35.7%	35.3%	35.0%
Internet Penetration of Estimated Internet Passings	39.6%	39.8%	39.7%	40.3%	40.3%	41.2%	41.7%	42.3%	43.1%	43.1%	44.0%	44.5%	45.0%
Voice Penetration of Estimated Voice Passings	17.6%	17.8%	17.7%	18.7%	18.7%	19.7%	20.5%	21.3%	22.0%	22.0%	22.6%	22.9%	22.9%
Customer Relationships (c)													
Residential	14,532	14,475	14,457	14,511	14,511	14,716	14,782	14,929	15,129	15,129	15,365	15,463	15,573
Small and Medium Business	615	634	649	661	661	674	690	705	722	722	734	753	771
Total Customer Relationships	15,147	15,109	15,106	15,172	15,172	15,390	15,472	15,634	15,851	15,851	16,099	16,216	16,344
Residential													
Primary Service Units ("PSU")													
Video	11,163	11,011	10,827	10,789	10,789	10,819	10,774	10,767	10,821	10,821	10,842	10,769	10,708
Internet	11,358	11,415	11,507	11,675	11,675	11,990	12,162	12,394	12,675	12,675	12,989	13,172	13,346
Voice	4,913	4,975	4,989	5,284	5,284	5,604	5,856	6,093	6,320	6,320	6,498	6,618	6,636
	27,434	27,401	27,323	27,748	27,748	28,413	28,792	29,254	29,816	29,816	30,329	30,559	30,690
Net Additions/(Losses)													
Video	(34)	(152)	(184)	(38)	(408)	30	(45)	(7)	54	32	21	(73)	(61)
Internet	269	57	92	168	586	315	172	232	281	1,000	314	183	174
Voice	107	62	14	295	478	320	252	237	227	1,036	178	120	18
	342	(33)	(78)	425	656	665	379	462	562	2,068	513	230	131
% Residential Non-Video Customer Relationships	23.2%	23.9%	25.1%	25.6%	25.6%	26.5%	27.1%	27.9%	28.5%	28.5%	29.4%	30.4%	31.2%
Monthly Residential Revenue per Residential Customer (d)	$ 104.76	$ 106.37	$ 105.83	$ 105.23	$ 105.57	$ 105.69	$ 106.69	$ 105.57	$ 105.97	$ 105.99	$ 107.28	$ 108.36	$ 108.49
Small and Medium Business													
PSUs													
Video	197	201	203	204	204	205	208	210	213	213	215	216	219
Internet	507	524	539	551	551	563	578	592	608	608	619	639	655
Voice	282	295	305	314	314	325	339	352	364	364	374	388	400
	986	1,020	1,047	1,069	1,069	1,093	1,125	1,154	1,185	1,185	1,208	1,243	1,274
Net Additions/(Losses)													
Video	1	4	2	1	8	1	3	2	3	9	2	1	3
Internet	12	17	15	12	56	12	15	14	16	57	11	20	16
Voice	13	13	10	9	45	11	14	13	12	50	10	14	12
	26	34	27	22	109	24	32	29	31	116	23	35	31
Monthly Small and Medium Business Revenue per Customer (e)	$ 214.53	$ 217.02	$ 222.44	$ 227.31	$ 220.47	$ 230.10	$ 232.86	$ 236.66	$ 239.15	$ 234.74	$ 240.65	$ 245.00	$ 246.92
Enterprise PSUs (f)													
Enterprise PSUs	30	32	34	36	36	37	39	40	42	42	44	46	47
Revenue (j) ($ in millions)													
Residential	$ 4,540	$ 4,635	$ 4,585	$ 4,570	$ 18,330	$ 4,630	$ 4,724	$ 4,699	$ 4,776	$ 18,829	$ 4,903	$ 5,015	$ 5,045
Commercial	666	691	723	754	2,834	781	802	835	864	3,282	886	911	932
Advertising Sales	247	272	276	332	1,127	236	270	258	291	1,055	251	282	278
Other	141	138	146	154	579	154	153	156	167	630	176	167	150
Total Revenue	$ 5,594	$ 5,736	$ 5,730	$ 5,810	$ 22,870	$ 5,801	$ 5,949	$ 5,948	$ 6,098	$ 23,796	$ 6,216	$ 6,375	$ 6,405

All percentages are calculated using whole numbers. Minor differences may exist due to rounding.
See footnotes on page 9.

Charter Communications, Inc.
Legacy Charter Customer Metrics
(in thousands except ARPU and penetration, unaudited)

EXHIBIT D

	2014					2015					2016		
	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q
Footprint (a)													
Estimated Video Passings	12,734	12,735	12,730	12,740	12,740	12,745	12,757	12,770	12,783	12,783	12,854	12,914	12,984
Estimated Internet Passings	12,418	12,425	12,420	12,465	12,465	12,475	12,486	12,502	12,515	12,515	12,588	12,653	12,768
Estimated Voice Passings	11,929	11,949	11,943	12,005	12,005	12,022	12,034	12,050	12,062	12,062	12,138	12,226	12,348
Penetration Statistics (b)													
Video Penetration of Estimated Video Passings	35.3%	34.9%	34.7%	34.7%	34.7%	34.6%	34.3%	34.4%	34.7%	34.7%	34.6%	34.4%	34.4%
Internet Penetration of Estimated Internet Passings	38.6%	39.1%	39.9%	40.7%	40.7%	41.8%	42.4%	43.5%	44.5%	44.5%	45.5%	46.1%	46.8%
Voice Penetration of Estimated Voice Passings	20.7%	21.1%	21.4%	21.8%	21.8%	22.2%	22.5%	22.9%	23.3%	23.3%	23.6%	23.7%	23.6%
Customer Relationships (c)													
Residential	5,867	5,868	5,923	5,990	5,990	6,070	6,108	6,202	6,284	6,284	6,388	6,451	6,542
Small and Medium Business	296	309	320	332	332	342	359	375	390	390	405	423	441
Total Customer Relationships	6,163	6,177	6,243	6,322	6,322	6,412	6,467	6,577	6,674	6,674	6,793	6,874	6,983
Residential													
Primary Service Units ("PSU")													
Video	4,404	4,350	4,327	4,324	4,324	4,311	4,282	4,293	4,322	4,322	4,332	4,325	4,344
Internet	4,536	4,585	4,681	4,785	4,785	4,910	4,982	5,112	5,227	5,227	5,368	5,458	5,579
Voice	2,325	2,360	2,389	2,439	2,439	2,481	2,514	2,551	2,598	2,598	2,633	2,652	2,665
	11,265	11,295	11,397	11,548	11,548	11,702	11,778	11,956	12,147	12,147	12,333	12,435	12,588
Net Additions/(Losses)													
Video	(2)	(54)	(23)	(3)	(82)	(13)	(29)	11	29	(2)	10	(7)	19
Internet	137	49	96	104	386	125	72	130	115	442	141	90	121
Voice	52	35	29	50	166	42	33	37	47	159	35	19	13
	187	30	102	151	470	154	76	178	191	599	186	102	153
% Residential Non-Video Customer Relationships	24.9%	25.9%	26.9%	27.8%	27.8%	29.0%	29.9%	30.8%	31.2%	31.2%	32.2%	33.0%	33.6%
Monthly Residential Revenue per Residential Customer (d)	$ 106.42	$ 107.44	$ 107.76	$ 108.67	$ 107.60	$ 109.53	$ 110.85	$ 110.69	$ 111.19	$ 110.58	$ 111.04	$ 111.32	$ 111.25
Small and Medium Business													
PSUs													
Video	92	94	95	95	95	96	100	104	108	108	113	119	123
Internet	254	267	279	290	290	300	316	331	345	345	359	376	392
Voice	150	161	169	177	177	185	197	208	218	218	231	244	255
	496	522	543	562	562	581	613	643	671	671	703	739	770
Net Additions/(Losses)													
Video	1	2	1	—	4	1	4	4	4	13	5	6	4
Internet	10	13	12	11	46	10	16	15	14	55	14	17	16
Voice	7	11	8	8	34	8	12	11	10	41	13	13	11
	18	26	21	19	84	19	32	30	28	109	32	36	31
Monthly Small and Medium Business Revenue per Customer (e)	$ 180.98	$ 184.02	$ 183.37	$ 181.83	$ 181.67	$ 179.74	$ 179.93	$ 176.19	$ 172.88	$ 176.98	$ 169.68	$ 170.12	$ 167.64
Enterprise PSUs (f)													
Enterprise PSUs	22	23	24	25	25	26	27	28	30	30	31	33	35
Revenue (j) ($ in millions)													
Residential	$ 1,856	$ 1,893	$ 1,902	$ 1,943	$ 7,594	$ 1,980	$ 2,026	$ 2,040	$ 2,083	$ 8,129	$ 2,109	$ 2,146	$ 2,164
Commercial	234	244	253	262	993	269	278	286	294	1,127	301	315	323
Advertising Sales	68	79	87	107	341	66	79	77	87	309	72	81	88
Other	44	43	45	48	180	47	47	47	48	189	48	50	51
Total Revenue	$ 2,202	$ 2,259	$ 2,287	$ 2,360	$ 9,108	$ 2,362	$ 2,430	$ 2,450	$ 2,512	$ 9,754	$ 2,530	$ 2,592	$ 2,626

All percentages are calculated using whole numbers. Minor differences may exist due to rounding.
See footnotes on page 9.

Charter Communications, Inc.
Legacy Bright House Customer Metrics
(in thousands except ARPU and penetration, unaudited)

EXHIBIT D

	2014					2015					2016		
	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q
Footprint (a)													
Estimated Video Passings	4,610	4,633	4,657	4,659	4,659	4,677	4,694	4,712	4,729	4,729	4,740	4,757	4,799
Estimated Internet Passings	4,598	4,621	4,645	4,647	4,647	4,665	4,682	4,700	4,717	4,717	4,728	4,744	4,786
Estimated Voice Passings	4,598	4,621	4,645	4,647	4,647	4,665	4,682	4,700	4,717	4,717	4,728	4,744	4,786
Penetration Statistics (b)													
Video Penetration of Estimated Video Passings	45.4%	43.5%	43.0%	43.8%	43.8%	43.7%	41.5%	40.8%	41.4%	41.4%	41.2%	39.6%	39.2%
Internet Penetration of Estimated Internet Passings	44.2%	42.5%	42.7%	44.3%	44.3%	45.2%	43.2%	43.2%	45.2%	45.2%	46.6%	45.7%	46.6%
Voice Penetration of Estimated Voice Passings	25.6%	24.3%	24.2%	25.1%	25.1%	25.3%	23.7%	23.3%	23.9%	23.9%	23.9%	22.7%	22.6%
Customer Relationships (c)													
Residential	2,395	2,316	2,316	2,367	2,367	2,396	2,311	2,305	2,382	2,382	2,427	2,392	2,436
Small and Medium Business	124	127	131	134	134	136	138	141	144	144	147	157	155
Total Customer Relationships	2,519	2,443	2,447	2,501	2,501	2,532	2,449	2,446	2,526	2,526	2,574	2,549	2,591
Residential													
Primary Service Units ("PSU")													
Video	2,056	1,978	1,967	2,001	2,001	2,004	1,908	1,884	1,919	1,919	1,912	1,840	1,835
Internet	1,926	1,856	1,870	1,941	1,941	1,990	1,903	1,910	2,009	2,009	2,074	2,037	2,092
Voice	1,112	1,053	1,052	1,092	1,092	1,100	1,029	1,011	1,041	1,041	1,041	985	987
	5,094	4,887	4,889	5,034	5,034	5,094	4,840	4,805	4,969	4,969	5,027	4,862	4,914
Net Additions/(Losses)													
Video	17	(78)	(11)	34	(38)	3	(96)	(24)	35	(82)	(7)	(72)	(5)
Internet	54	(70)	14	71	69	49	(87)	7	99	68	65	(37)	55
Voice	28	(59)	(1)	40	8	8	(71)	(18)	30	(51)	—	(56)	2
	99	(207)	2	145	39	60	(254)	(35)	164	(65)	58	(165)	52
% Residential Non-Video Customer Relationships	14.2%	14.6%	15.1%	15.5%	15.5%	16.4%	17.4%	18.3%	19.4%	19.4%	21.2%	23.1%	24.7%
Monthly Residential Revenue per Residential Customer (d)	$ 106.70	$ 107.86	$ 107.85	$ 108.96	$ 107.78	$ 112.50	$ 114.69	$ 113.46	$ 114.51	$ 113.70	$ 114.51	$ 114.28	$ 113.17
Small and Medium Business													
PSUs													
Video	35	36	37	38	38	39	39	40	40	40	41	43	46
Internet	107	110	113	116	116	118	120	122	125	125	129	133	138
Voice	65	69	72	76	76	78	81	83	85	85	88	93	96
	207	215	222	230	230	235	240	245	250	250	258	269	280
Net Additions/(Losses)													
Video	1	1	1	1	4	1	—	1	—	2	1	2	3
Internet	4	3	3	3	13	2	2	2	3	9	4	4	5
Voice	4	4	3	4	15	2	3	2	2	9	3	5	3
	9	8	7	8	32	5	5	5	5	20	8	11	11
Monthly Small and Medium Business Revenue per Customer (e)	$ 176.11	$ 178.28	$ 182.12	$ 182.79	$ 179.90	$ 179.34	$ 183.11	$ 185.10	$ 185.54	$ 183.24	$ 185.45	$ 187.02	$ 186.66
Enterprise PSUs (f)													
Enterprise PSUs	6	7	8	8	8	8	8	9	9	9	10	11	11
Revenue (j) ($ in millions)													
Residential	$ 762	$ 761	$ 748	$ 766	$ 3,037	$ 804	$ 809	$ 785	$ 806	$ 3,204	$ 826	$ 825	$ 819
Commercial	94	98	101	104	397	108	113	116	119	456	121	127	130
Advertising Sales	44	44	47	53	188	44	47	45	47	183	48	49	58
Other	19	19	27	22	87	20	23	22	23	88	26	25	23
Total Revenue	$ 919	$ 922	$ 923	$ 945	$ 3,709	$ 976	$ 992	$ 968	$ 995	$ 3,931	$ 1,021	$ 1,026	$ 1,030

All percentages are calculated using whole numbers. Minor differences may exist due to rounding.
See footnotes on page 9.

Charter Communications, Inc.
Pro Forma Revenue, Expenses and Adjusted EBITDA[i]
($ in millions; unaudited)

EXHIBIT D

	2014					2015					2016		
	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q
Revenue													
Video	$ 3,951	$ 4,022	$ 3,960	$ 3,957	$15,890	$ 3,980	$ 4,056	$ 3,973	$ 4,020	$16,029	$ 4,073	$ 4,124	$ 4,094
Internet	2,462	2,534	2,565	2,617	10,178	2,729	2,798	2,844	2,924	11,295	3,037	3,133	3,206
Voice	745	733	710	705	2,893	705	705	707	721	2,838	728	729	728
Residential Revenue	7,158	7,289	7,235	7,279	28,961	7,414	7,559	7,524	7,665	30,162	7,838	7,986	8,028
Small and Medium Business	615	641	671	697	2,624	715	741	767	790	3,013	809	843	868
Enterprise	374	385	398	415	1,572	435	443	461	479	1,818	490	502	508
Commercial Revenue	989	1,026	1,069	1,112	4,196	1,150	1,184	1,228	1,269	4,831	1,299	1,345	1,376
Advertising Sales	352	389	402	484	1,627	341	390	374	419	1,524	365	405	419
Other	199	195	213	219	826	216	217	216	228	877	240	233	214
Total Revenue	**$ 8,698**	**$ 8,899**	**$ 8,919**	**$ 9,094**	**$35,610**	**$ 9,121**	**$ 9,350**	**$ 9,342**	**$ 9,581**	**$37,394**	**$ 9,742**	**$ 9,969**	**$10,037**
Y/Y Growth	NA	NA	NA	NA	NA	***4.9%***	***5.1%***	***4.7%***	***5.4%***	***5.0%***	***6.8%***	***6.6%***	***7.4%***
Costs and Expenses													
Programming	$ 2,019	$ 2,020	$ 2,031	$ 2,035	$ 8,105	$ 2,232	$ 2,250	$ 2,222	$ 2,249	$ 8,953	$ 2,407	$ 2,417	$ 2,404
Regulatory, Connectivity and Produced Content	503	525	498	501	2,027	477	538	523	495	2,033	496	545	508
Costs to Service Customers	1,675	1,707	1,769	1,749	6,900	1,749	1,770	1,858	1,804	7,181	1,801	1,806	1,825
Marketing	530	515	544	515	2,104	542	574	587	588	2,291	587	611	591
Transition Costs	—	—	3	11	14	21	17	12	22	72	21	25	32
Other Expense	900	950	917	960	3,727	939	951	965	1,005	3,860	997	1,023	1,041
Total Operating Costs and Expenses	**$ 5,627**	**$ 5,717**	**$ 5,762**	**$ 5,771**	**$22,877**	**$ 5,960**	**$ 6,100**	**$ 6,167**	**$ 6,163**	**$24,390**	**$ 6,309**	**$ 6,427**	**$ 6,401**
Adjusted EBITDA [i]													
Adjusted EBITDA [i]	**$ 3,071**	**$ 3,182**	**$ 3,157**	**$ 3,323**	**$12,733**	**$ 3,161**	**$ 3,250**	**$ 3,175**	**$ 3,418**	**$13,004**	**$ 3,433**	**$ 3,542**	**$ 3,636**
Y/Y Growth	NA	NA	NA	NA	NA	***3.0%***	***2.1%***	***0.6%***	***2.9%***	***2.1%***	***8.6%***	***9.0%***	***14.5%***
Adjusted EBITDA Margin	***35.3%***	***35.8%***	***35.4%***	***36.5%***	***35.8%***	***34.7%***	***34.8%***	***34.0%***	***35.7%***	***34.8%***	***35.2%***	***35.5%***	***36.2%***

Pro forma results reflect certain acquisitions of cable systems in 2016 as if they occurred as of the earliest period presented. The pro forma data is based on information available to Charter as of the date of this document and certain assumptions that we believe are reasonable under the circumstances. The financial data required allocation of certain revenues and expenses and such information has been presented for comparative purposes and is not intended to provide any indication of what our actual financial position, or results of operations would have been had the transactions described above been completed on the dates indicated or to project our results of operations for any future date. See Exhibit 99.1 in Charter's Quarterly Report on Form 10-Q for the three and nine months ended September 30, 2016 for pro forma financial information for each quarter of 2015 and the first and second quarter of 2016.

Adjusted EBITDA[i] is a non-GAAP term. See page 8 for the reconciliation of adjusted EBITDA[i] to net income (loss) as defined by GAAP.

All percentages are calculated using whole numbers. Minor differences may exist due to rounding.

NA - Not available.

See footnotes on page 9.

Charter Communications, Inc.
Actual Revenue, Expenses and Adjusted EBITDA[i]
($ in millions; unaudited)

EXHIBIT D

	2014					2015					2016		
	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q
Revenue													
Video	$ 1,090	$ 1,110	$ 1,109	$ 1,134	$ 4,443	$ 1,129	$ 1,148	$ 1,143	$ 1,167	$ 4,587	$ 1,170	$ 2,605	$ 4,094
Internet	616	638	652	670	2,576	717	743	762	781	3,003	804	1,950	3,206
Voice	150	145	141	139	575	134	135	135	135	539	135	423	728
Residential Revenue	1,856	1,893	1,902	1,943	7,594	1,980	2,026	2,040	2,083	8,129	2,109	4,978	8,028
Small and Medium Business	158	167	173	178	676	182	190	193	199	764	202	520	868
Enterprise	76	77	80	84	317	87	88	93	95	363	99	296	508
Commercial Revenue	234	244	253	262	993	269	278	286	294	1,127	301	816	1,376
Advertising Sales	68	79	87	107	341	66	79	77	87	309	72	237	419
Other	44	43	45	48	180	47	47	47	48	189	48	130	214
Total Revenue	**$ 2,202**	**$ 2,259**	**$ 2,287**	**$ 2,360**	**$ 9,108**	**$ 2,362**	**$ 2,430**	**$ 2,450**	**$ 2,512**	**$ 9,754**	**$ 2,530**	**$ 6,161**	**$10,037**
Y/Y Growth	***7.5%***	***7.3%***	***8.0%***	***9.9%***	***8.2%***	***7.3%***	***7.6%***	***7.2%***	***6.4%***	***7.1%***	***7.1%***	***NM***	***NM***
Costs and Expenses													
Programming	$ 606	$ 607	$ 621	$ 625	$ 2,459	$ 666	$ 671	$ 667	$ 674	$ 2,678	$ 703	$ 1,541	$ 2,404
Regulatory, Connectivity and Produced Content	107	107	105	109	428	107	109	108	111	435	112	316	508
Costs to Service Customers	403	424	431	421	1,679	423	424	438	420	1,705	421	1,083	1,825
Marketing	150	154	160	153	617	153	158	163	154	628	165	378	591
Transition Costs	—	—	3	11	14	21	17	12	22	72	21	25	32
Other Expense	169	172	184	196	721	192	203	212	223	830	225	598	1,041
Total Operating Costs and Expenses	**$ 1,435**	**$ 1,464**	**$ 1,504**	**$ 1,515**	**$ 5,918**	**$ 1,562**	**$ 1,582**	**$ 1,600**	**$ 1,604**	**$ 6,348**	**$ 1,647**	**$ 3,941**	**$ 6,401**
Adjusted EBITDA [i]													
Adjusted EBITDA [i]	**$ 767**	**$ 795**	**$ 783**	**$ 845**	**$ 3,190**	**$ 800**	**$ 848**	**$ 850**	**$ 908**	**$ 3,406**	**$ 883**	**$ 2,220**	**$ 3,636**
Y/Y Growth	***7.3%***	***7.9%***	***7.0%***	***10.5%***	***8.2%***	***4.2%***	***6.8%***	***8.5%***	***7.5%***	***6.8%***	***10.4%***	***NM***	***NM***
Adjusted EBITDA[i] Margin	***34.8%***	***35.2%***	***34.2%***	***35.8%***	***35.0%***	***33.9%***	***34.9%***	***34.7%***	***36.2%***	***34.9%***	***34.9%***	***36.0%***	***36.2%***

Adjusted EBITDA[i] is a non-GAAP term. See page 8 for the reconciliation of adjusted EBITDA[i] to net income (loss) as defined by GAAP.

Year over year revenue and Adjusted EBITDA growth percentages shown above for Q1 2014, Q2 2014 and full year 2014 are on a pro forma basis to reflect certain acquisitions of cable systems in 2013 as if they occurred as of January 1, 2013. Year over year revenue growth for Q1 2014, Q2 2014 and full year 2014 on an actual basis was 14.9%, 14.6% and 11.7%, respectively. Year over year Adjusted EBITDA[i] growth for Q1 2014, Q2 2014 and full year 2014 on an actual basis was 14.5%, 14.9% and 11.6%, respectively.

All percentages are calculated using whole numbers. Minor differences may exist due to rounding.

NM - Not meaningful.

See footnotes on page 9.

Charter Communications, Inc.
Capital Expenditures
($ in millions; unaudited)

EXHIBIT D

	2014					2015					2016		
	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q
Pro Forma Capital Expenditures													
Customer premise equipment (k)	$ 755	$ 881	$ 767	$ 558	$ 2,961	$ 687	$ 698	$ 712	$ 553	$ 2,650	$ 761	$ 651	$ 662
Scalable infrastructure (l)	256	567	370	433	1,626	392	466	330	514	1,702	475	640	441
Line extensions (m)	219	229	236	223	907	244	244	237	252	977	225	277	249
Success Based	1,230	1,677	1,373	1,214	5,494	1,323	1,408	1,279	1,319	5,329	1,461	1,568	1,352
Upgrade/Rebuild (n)	81	132	130	126	469	101	166	171	156	594	134	171	156
Support capital (o)	156	274	260	399	1,089	160	281	249	356	1,046	239	336	240
Total capital expenditures	$ 1,467	$ 2,083	$ 1,763	$ 1,739	$ 7,052	$ 1,584	$ 1,855	$ 1,699	$ 1,831	$ 6,969	$ 1,834	$ 2,075	$ 1,748

	2014					2015					2016		
	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q
Actual Capital Expenditures													
Customer premise equipment (k)	$ 329	$ 297	$ 282	$ 174	$ 1,082	$ 150	$ 135	$ 163	$ 134	$ 582	$ 137	$ 378	$ 662
Scalable infrastructure (l)	87	107	113	148	455	75	118	142	188	523	110	386	441
Line extensions (m)	40	41	50	45	176	39	48	57	50	194	47	171	249
Success Based	456	445	445	367	1,713	264	301	362	372	1,299	294	935	1,352
Upgrade/Rebuild (n)	33	51	47	36	167	23	33	38	34	128	41	110	156
Support capital (o)	50	74	77	140	341	64	98	109	142	413	94	215	240
Total capital expenditures *	$ 539	$ 570	$ 569	$ 543	$ 2,221	$ 351	$ 432	$ 509	$ 548	$ 1,840	$ 429	$ 1,260	$ 1,748
Capital expenditures included in total related to:													
* All-digital transition	$ 119	$ 134	$ 115	$ 42	$ 410	$ —	$ —	$ —	$ —	$ —	$ —	$ —	$ —
* Commercial services	$ 59	$ 63	$ 62	$ 58	$ 242	$ 51	$ 65	$ 70	$ 74	$ 260	$ 64	$ 191	$ 278
* Transition (p)	$ —	$ —	$ 1	$ 26	$ 27	$ 14	$ 28	$ 24	$ 49	$ 115	$ 53	$ 111	$ 109

Plant Stats:	2014 FY	2015 FY	2016
Less than 550 Megahertz	1%	—%	
550-749 Megahertz	1%	1%	
750-859 Megahertz	58%	56%	
860+ Megahertz	40%	43%	
Two-way activated	99%	100%	
Headends	161	123	

See footnotes on page 9.

Charter Communications, Inc.
Reconciliation of Non-GAAP Measures to GAAP Measures
($ in millions; unaudited)

EXHIBIT D

	2014					2015					2016		
	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q
Pro Forma Reconciliation													
Consolidated net income (loss)	$ (53)	$ 15	$ 5	$ 74	$ 41	$ 18	$ 88	$ 40	$ 192	$ 338	$ 249	$ 331	$ 250
Plus:													
Interest expense, net	773	757	768	824	3,122	801	745	724	698	2,968	708	723	724
Income tax (benefit) expense	(50)	(12)	(18)	19	(61)	(10)	28	1	83	102	115	157	16
Depreciation and amortization	2,310	2,333	2,340	2,339	9,322	2,278	2,327	2,356	2,387	9,348	2,285	2,338	2,437
Stock compensation expense	54	57	56	56	223	61	61	62	62	246	66	72	81
Loss on extinguishment of debt	—	—	—	—	—	—	128	—	—	128	—	110	—
(Gain) loss on financial instruments, net	2	6	(5)	4	7	6	(1)	5	(6)	4	5	50	(71)
Other, net	35	26	11	7	79	7	(126)	(13)	2	(130)	5	(239)	199
Adjusted EBITDA [(i)]	3,071	3,182	3,157	3,323	12,733	3,161	3,250	3,175	3,418	13,004	3,433	3,542	3,636
Less: Purchases of property, plant and equipment	(1,467)	(2,083)	(1,763)	(1,739)	(7,052)	(1,584)	(1,855)	(1,699)	(1,831)	(6,969)	(1,834)	(2,075)	(1,748)
Adjusted EBITDA[(i)] less capital expenditures	$ 1,604	$ 1,099	$ 1,394	$ 1,584	$ 5,681	$ 1,577	$ 1,395	$ 1,476	$ 1,587	$ 6,035	$ 1,599	$ 1,467	$ 1,888

	2014					2015					2016		
	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q	4Q	FY	1Q	2Q	3Q
Actual Reconciliation													
Consolidated net income (loss)	$ (37)	$ (45)	$ (53)	$ (48)	$ (183)	$ (81)	$ (122)	$ 54	$ (122)	$ (271)	$ (188)	$ 3,114	$ 250
Plus:													
Interest expense, net	211	210	217	273	911	289	229	353	435	1,306	454	593	724
Income tax (benefit) expense	64	65	59	48	236	35	35	(142)	12	(60)	28	(3,179)	16
Depreciation and amortization	505	528	535	534	2,102	514	528	538	545	2,125	539	1,436	2,437
Stock compensation expense	12	15	14	14	55	19	19	20	20	78	24	63	81
Loss on extinguishment of debt	—	—	—	—	—	—	128	—	—	128	—	110	—
(Gain) loss on financial instruments, net	2	6	(5)	4	7	6	(1)	5	(6)	4	5	50	(71)
Other, net	10	16	16	20	62	18	32	22	24	96	21	33	199
Adjusted EBITDA [(i)]	767	795	783	845	3,190	800	848	850	908	3,406	883	2,220	3,636
Less: Purchases of property, plant and equipment	(539)	(570)	(569)	(543)	(2,221)	(351)	(432)	(509)	(548)	(1,840)	(429)	(1,260)	(1,748)
Adjusted EBITDA[(i)] less capital expenditures	$ 228	$ 225	$ 214	$ 302	$ 969	$ 449	$ 416	$ 341	$ 360	$ 1,566	$ 454	$ 960	$ 1,888
Net cash flows from operating activities	$ 577	$ 632	$ 520	$ 630	$ 2,359	$ 528	$ 531	$ 689	$ 611	$ 2,359	$ 424	$ 1,590	$ 2,801
Less:													
Purchases of property, plant and equipment	(539)	(570)	(569)	(543)	(2,221)	(351)	(432)	(509)	(548)	(1,840)	(429)	(1,260)	(1,748)
Change in accrued expenses related to capital expenditures	36	8	(13)	2	33	(76)	59	28	17	28	(56)	194	(52)
Free cash flow	$ 74	$ 70	$ (62)	$ 89	$ 171	$ 101	$ 158	$ 208	$ 80	$ 547	$ (61)	$ 524	$ 1,001

See pages 5 and 6 for detail of the components included within adjusted EBITDA[(i)].

The above schedule is presented in order to reconcile adjusted EBITDA[(i)] and free cash flows, both non-GAAP measures, to the most directly comparable GAAP measures in accordance with Section 401(b) of the Sarbanes-Oxley Act.

See footnotes on page 9.

EXHIBIT D

(a) Passings represent our estimate of the number of units, such as single family homes, apartment and condominium units and small and medium business and enterprise sites passed by our cable distribution network in the areas where we offer the service indicated. These estimates are based upon the information available at this time and are updated for all periods presented when new information becomes available.

(b) Penetration represents residential and small and medium business customers as a percentage of estimated passings for the service indicated.

(c) All customer statistics include operations of Legacy Charter, Legacy TWC and Legacy Bright House, each of which is based on the legacy company's reporting methodology. Such methodologies differ and these differences may be material. Once statistical reporting is fully integrated, all prior periods will be recast to reflect a consistent methodology.

Customer relationships include the number of customers that receive one or more levels of service, encompassing video, Internet and voice services, without regard to which service(s) such customers receive. Customers who reside in residential multiple dwelling units ("MDUs") and that are billed under bulk contracts are counted based on the number of billed units within each bulk MDU. Total customer relationships excludes enterprise customer relationships.

(d) Monthly residential revenue per residential customer is calculated as total residential video, Internet and voice quarterly pro forma revenue divided by three divided by average pro forma residential customer relationships during the respective quarter.

(e) Monthly small and medium business revenue per customer is calculated as total small and medium business quarterly pro forma revenue divided by three divided by average pro forma small and medium business customer relationships during the respective quarter.

(f) Enterprise PSUs represents the aggregate number of fiber service offerings counting each separate service offering as an individual PSU.

(g) Single play, double play and triple play customers represent customers that subscribe to one, two or three of Charter service offerings, respectively.

(h) Single play, double play and triple play penetration represents the number of residential single play, double play and triple play customers, respectively, as a percentage of residential customer relationships.

(i) Adjusted EBITDA is defined as net income (loss) plus net interest expense, income taxes, depreciation and amortization, stock compensation expense, loss on extinguishment of debt, (gain) loss on financial instruments, net, other expense, net and other operating (income) expenses, such as merger and restructuring costs, other pension benefits, special charges and (gain) loss on sale or retirement of assets. As such, it eliminates the significant non-cash depreciation and amortization expense that results from the capital-intensive nature of our businesses as well as other non-cash or special items, and is unaffected by our capital structure or investment activities.

(j) The total of Legacy Charter, Legacy TWC and Legacy Bright House revenue does not equal pro forma revenue due to intercompany eliminations. Legacy TWC and Legacy Bright House revenue includes reclassifications to conform to Charter's financial statement classification such processing fees revenue and other revenue items. Legacy TWC revenue also includes the elimination of the TWC management fee incurred by Bright House.

(k) Customer premise equipment includes costs incurred at the customer residence to secure new customers and revenue generating units, including customer installation costs and customer premise equipment (e.g., set-top boxes and cable modems, etc.).

(l) Scalable infrastructure includes costs, not related to customer premise equipment or our network, to secure growth of new customers and revenue generating units, or provide service enhancements (e.g., headend equipment).

(m) Line extensions include network costs associated with entering new service areas (e.g., fiber/coaxial cable, amplifiers, electronic equipment, make-ready and design engineering).

(n) Upgrade/rebuild includes costs to modify or replace existing fiber/coaxial cable networks, including betterments.

(o) Support capital includes costs associated with the replacement or enhancement of non-network assets due to technological and physical obsolescence (e.g., non-network equipment, land, buildings and vehicles).

(p) Transition represents incremental costs incurred to integrate the Legacy TWC and Legacy Bright House operations and to bring the three companies' systems and processes into a uniform operating structure.

<u>EXHIBIT E</u>

Oceanic Digital Channel Lineup for Kauai dated April 5, 2016

Oceanic
Time Warner Cable®

Digital Channel Lineup – Kauai

Standard TV Service

- 2 KHON-2 (FOX) •
- 3 KVIC (Visitor Info) •
- 4 KITV-4 (ABC) •
- 5 KFVE-5 (myNetworkTV) •
- 6 Local Programs •
- 8 KHNL-13 (NBC) •
- 9 KGMB-9 (CBS) •
- 11 KHET-11 (PBS) •
- 12 OC16 •
- 13 OC16 Interactive
- 14 OC16 On Demand
- 15 OCSports Enhanced Interactive
- 16 OCSports ■
- 17 Primetime On Demand
- 20 XCast Multiview •
- 21 XCast 1 •
- 22 XCast 2 •
- 24 Evine Live ■
- 25 3ABN ■
- 26 TBN ■
- 29 Daystar •
- 30 Leased Access •
- 45 CSPAN •
- 46 CSPAN3 •
- 47 CSPAN2 •
- 50 Hawaii State Public Access Network On Demand
- 53 Hoike: Government •
- 54 Hoike: Public •
- 55 The Weather Channel ■
- 57 Home Shopping Network ■
- 58 Jewelry TV •
- 66 WE: Women's Entertainment ■
- 68 New Tang Dynasty TV •
- 79 Arirang •
- 80 KBS America •
- 82 Digital KBFD •
- 83 Digital KHON (FOX) •
- 85 Digital KFVE (myNetwork TV) •
- 86 Digital KITV (ABC) •
- 87 Digital KGMB (CBS) •
- 88 Digital KHNL (NBC) •
- 89 Digital KIKU •
- 90 Digital KHET (PBS) •
- 93 The CW •
- 100 eBILL
- 107 MSNBC ■
- 108 Fox Business Network ■
- 109 Fox News Channel ■
- 111 Headline News ■
- 113 CNN ■
- 116 CNBC ■
- 119 truTV ■
- 126 Me TV •
- 132 Jewelry TV •
- 150 Evine Live ■
- 152 Home Shopping Network ■
- 153 QVC •
- 154 HSNShop ■
- 155 Gemporia •
- 156 Liquidation Channel •
- 157 Revenue Frontier •
- 158 Gem Shopping Network •
- 159 America's Auction Network •
- 160 Revenue Frontier •
- 162 Shop Zeal 2 •
- 210 NBCSN ■
- 214 Fox Sports 1 ■
- 215 OCSports ■
- 216 The Golf Channel ■
- 217 SportsNet LA ■
- 218 Time Warner Cable SportsNet ■
- 219 SEC Network Alternate ■
- 220 SEC Network ■
- 222 ESPN ■
- 224 ESPN2 ■
- 226 Fox Sports West ■
- 227 Fox Sports San Diego ■
- 228 Prime Ticket ■
- 250 Oceanic SURF Channel •
- 251 USURF
- 270-274 NBC Sports Extra Time ■
- 311 TWCable How To On Demand
- 316 New Hope Leeward Channel
- 318 Discovery Life ■
- 319 SportsNet LA ■
- 321 Food Network ■
- 323 Home & Garden TV ■
- 325 Travel Channel ■
- 327 The History Channel ■
- 329 Animal Planet ■
- 331 The Learning Channel ■
- 332 The Green Channel
- 333 Discovery Channel ■
- 336 Investigation Discovery ■
- 342 iAGE
- 343 Oprah Winfrey Network ■
- 347 National Geographic Channel ■
- 354 UHTV •
- 355 UHTV •
- 356 TEACH/DOE •
- 358 UH Distance Learning On Demand •
- 400 Time Warner Cable SportsNet ■
- 408 EWTN •
- 409 BYU TV •
- 410 Inspiration Network •
- 411 Digital Help
- 433 TAG Games
- 440 Cartoon Network ■
- 441 TV Land ■
- 442 Freeform ■
- 443 PBS Kids Hawaii •
- 444 Disney Channel ■
- 446 Nickelodeon ■
- 448 Lifetime ■
- 449 LMN ■
- 451 WE: Women's Entertainment ■
- 452 Hallmark Channel ■
- 541 KHNL2 (Antenna TV) •
- 544 KGMB2 (This TV) •
- 545 Comedy Central ■
- 546 Reelz Channel •
- 547 A&E ■
- 549 E! Entertainment TV ■
- 551 TBS •
- 552 TAG Games
- 553 TNT ■
- 554 FX ■
- 555 USA Network ■
- 557 Syfy ■
- 558 Oxygen ■
- 559 Spike TV ■
- 560 Bravo ■
- 564 WGN America ■
- 591 VH1 ■
- 593 MTV ■
- 600 AMC ■
- 602 Turner Classic Movies ■
- 609 HBO Interactive
- 631 Showtime Interactive
- 661 Starz Interactive
- 700 PPV Highlights
- 715 Playboy TV Interactive
- 912 Jobs On Demand
- 919 PETS
- 949 Local On Demand
- 951 OC16 On Demand
- 963 TWCable How To On Demand
- 975 Primetime On Demand
- 998 Pizza Hut Interactive
- 999 Premium Upgrade
- 1003 KHON HD (FOX) •
- 1005 KFVE HD (myNetwork TV) •
- 1006 KITV HD (ABC) •
- 1007 KGMB HD (CBS) •
- 1008 KHNL HD (NBC) •
- 1010 KHET HD (PBS) •
- 1012 OC16 HD •
- 1013 OC16 Interactive HD •
- 1014 OC16 On Demand
- 1015 OCSports Enhanced Interactive
- 1016 OCSports HD ■
- 1017 Primetime On Demand
- 1020 XCast Multiview HD •
- 1021 XCast 1 HD •
- 1022 XCast 2 HD •
- 1093 The CW HD •
- 1107 MSNBC HD ■*
- 1108 Fox Business Network HD ■
- 1109 Fox News Channel HD ■
- 1113 CNN HD ■
- 1116 CNBC HD ■
- 1150 Evine Live HD ■
- 1152 Home Shopping Network HD ■
- 1153 QVC HD ■
- 1154 HSNShop HD ■
- 1214 Fox Sports 1 HD ■
- 1215 OCSports HD ■
- 1217 SportsNet LA HD ■
- 1218 Time Warner Cable SportsNet HD ■
- 1220 SEC Network HD ■
- 1222 ESPN HD ■
- 1224 ESPN2 HD ■
- 1226 Fox Sports West HD ■*
- 1228 Prime Ticket HD ■
- 1250 Oceanic SURF Channel HD •

Standard TV Service *(continued)*

- 1251 USURF HD
- 1270-1274 NBC Sports Extra Time HD ■
- 1316 New Hope Leeward Channel HD
- 1319 SportsNet LA HD ■
- 1321 Food Network HD ■
- 1323 Home & Garden TV HD ■
- 1325 Travel Channel HD ■
- 1327 History Channel HD ■
- 1329 Animal Planet HD ■
- 1330 The Green Channel HD
- 1331 The Learning Channel HD ■*
- 1333 Discovery Channel HD ■
- 1336 Investigation Discovery HD ■
- 1342 iAGE HD
- 1347 National Geographic HD ■
- 1400 Time Warner Cable SportsNet HD ■
- 1440 Cartoon Network HD ■
- 1442 Freeform HD ■
- 1444 Disney Channel HD ■
- 1448 Lifetime HD ■
- 1449 LMN HD ■
- 1451 WE: Women's Entertainment HD ■
- 1452 Hallmark Channel HD ■*
- 1545 Comedy Central HD ■
- 1547 A&E HD ■
- 1549 E! Entertainment HD ■
- 1551 TBS HD •
- 1553 TNT HD ■
- 1554 FX Channel HD ■
- 1555 USA Network HD ■
- 1559 Spike TV HD ■
- 1560 Bravo HD ■
- 1600 AMC HD ■
- 1609 HBO Interactive HD
- 1631 Showtime Interactive HD
- 1661 Starz Interactive HD
- 1975 Primetime On Demand
- 1999 Info Channel

• Basic Service ■ Value Service
** Not available with a Digital Adapter Digital TV box required*

Digital Variety Pak

- 35 KHLU (Univision)
- 36 El Rey
- 37 Fuse
- 69 CCTV News
- 74 TVK2
- 75 TVK
- 76 Myx TV
- 77 Mnet
- 112 NewsChoice
- 114 Hawaii News On Demand
- 117 CNBC World
- 118 Bloomberg TV
- 121 The Weather Channel
- 122 BBC World News
- 123 Al Jazeera America
- 148 HSN2
- 149 Evine Too
- 151 QVC Plus
- 169 RLTV
- 200 SportsChoice
- 201 Sports & Fitness On Demand
- 203 NFL Network
- 208 MLB Network
- 212 The Outdoor Channel
- 221 ESPNU
- 225 ESPNews
- 229 beIN SPORT
- 230 FXX
- 241 Fox Sports 2
- 242 NBA TV
- 247 CBS Sports Network
- 320 CookSpace
- 322 Cooking Channel
- 324 Do It Yourself Network
- 326 Oiwi
- 328 Viceland
- 330 Free On Demand
- 334 Destination America
- 335 Discovery Family
- 337 Science Channel
- 339 Smithsonian
- 341 BBC America
- 345 American Heroes Channel
- 346 Military History
- 407 UP
- 428 Sprout
- 429 Disney Junior
- 432 Kidz Mosaic
- 434 Nicktoons
- 435 GSN
- 436 Teen Nick
- 438 Baby First TV
- 439 Boomerang
- 445 Disney XD
- 447 Nick Jr.
- 450 Lifetime Real Women
- 453 Hallmark Movies & Mysteries
- 542 Logo
- 548 FYI
- 550 Esquire
- 556 cloo
- 561 Nat Geo Wild
- 562 Entertainment On Demand
- 563 Chiller
- 584 Revolt
- 585 Great American Country
- 587 Country Music TV
- 589 VH1 Classic
- 592 MTV Hits
- 595 MTV2
- 596 Music On Demand
- 597 Centric
- 598 BET
- 599 FM
- 604 youtoo
- 608 Ovation
- 646 Sundance TV
- 673 Fox Movie Channel
- 674 Flix
- 675 Independent Film Channel
- 682 NHK World
- 697 beIN SPORT en Espanol
- 914 Automotive On Demand
- 941 MTV On Demand
- 943 Music Choice On Demand
- 953 Hawaii News On Demand
- 957 Sports & Fitness On Demand
- 965 Knowledge On Demand
- 967 Kids On Demand
- 969 Lifestyles On Demand
- 973 Entertainment On Demand
- 1037 Fuse HD
- 1118 Bloomberg TV HD
- 1121 The Weather Channel HD
- 1123 Al Jazeera America HD
- 1201 Sports & Fitness On Demand
- 1203 NFL Network HD
- 1208 MLB Network HD
- 1212 The Outdoor Channel HD
- 1221 ESPNU HD
- 1225 ESPNews HD
- 1229 beIN SPORT HD
- 1230 FXX HD
- 1247 CBS Sports Network HD
- 1320 CookSpace HD
- 1322 Cooking Channel HD
- 1326 Oiwi HD
- 1328 Viceland HD
- 1332 Velocity HD
- 1334 Destination America HD
- 1335 Discovery Family HD
- 1337 Science Channel HD
- 1339 Smithsonian HD
- 1341 BBC America HD
- 1428 Sprout HD
- 1429 Disney Jr. HD
- 1434 Nicktoons HD
- 1445 Disney XD HD
- 1447 Nick Jr. HD
- 1453 Hallmark Movies & Mysteries HD
- 1548 FYI HD
- 1550 Esquire HD
- 1561 Nat Geo Wild HD
- 1562 Entertainment On Demand
- 1584 FYI HD
- 1593 MTV Live
- 1598 BET HD
- 1608 Ovation HD
- 1646 Sundance TV HD
- 1673 Fox Movie Channel HD
- 1675 Independent Film Channel HD
- 1682 NHK World HD
- 1974 Cutting Edge On Demand

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Digital Channel Lineup – Kauai

HD Entertainment Pak

1001 Scenic Hawaii HD
1111 Headline News HD
1113 CNN HD
1116 CNBC HD
1132 Jewelry TV HD
1210 NBCSN HD
1216 Golf Channel HD
1229 beIN SPORT
1242 NBA TV HD
1339 Smithsonian Channel HD
1440 Cartoon Network HD
1551 TBS HD
1553 TNT HD
1555 USA Network HD
1557 Syfy HD
1560 Bravo HD
1564 MGM HD
1565 Crime & Investigation HD
1602 Turner Classic Movies HD
1603 MAV TV
1605 Universal HD
1682 NHK World HD

Premium Packages

HBO
610 HBO On Demand
611 HBO
612 HBO 2
613 HBO Signature
614 HBO Family
615 HBO Comedy
616 HBO Zone
1610 HBO On Demand
1611 HBO HD
1612 HBO 2 HD
1613 HBO Signature HD
1614 HBO Family HD

CINEMAX
621 Cinemax On Demand
622 Cinemax
623 MoreMax
624 ActionMax
625 ThrillerMax
1622 Cinemax HD
1623 MoreMax HD
1624 ActionMax HD

THE MOVIE CHANNEL
643 TMC On Demand
644 The Movie Channel
645 The Movie Channel Xtra
646 Sundance TV
1644 The Movie Channel HD
1645 The Movie Channel Xtra HD
1646 Sundance TV HD

SHOWTIME
632 Showtime On Demand
633 Showtime
634 Showtime Too
635 Showtime ShowCASE
636 Showtime Extreme
637 Showtime Beyond
638 Showtime Next
639 Showtime Women
640 Showtime Family Zone
1632 Showtime On Demand
1633 Showtime HD
1634 Showtime Too HD
1635 Showtime ShowCASE HD

STARZ
654 Starz On Demand
655 Starz
656 Starz Edge
657 Starz In Black
658 Starz Kids & Family
659 Starz Cinema
660 Starz Comedy
1654 Starz On Demand
1655 Starz HD
1656 Starz Edge HD
1657 Starz In Black HD
1658 Starz Kids & Family HD
1659 Starz Cinema HD
1660 Starz Comedy HD

Premium Services

62 SBTN
70 CCTV4
71 Zhong Tian (CTI)
72 Phoenix North America
73 Phoenix InfoNews
430 Disney Channel On Demand
431 Disney Family Movies On Demand
677 NGN
678 NGN2 (TV Japan)
679 NGN3
682 NGN4 (NHK World)
683 Lifestyle Network
684 Myx TV
685 Filipino On Demand
686 GMA Life TV
687 GMA Pinoy TV
688 The Filipino Channel
699 The Chinese Channel
710 Here TV On Demand
716 Playboy en Español
717 Playboy TV
718 Playboy TV On Demand
720 Penthouse TV
721 Penthouse TV On Demand
722 The Erotic Network
723 TEN On Demand
724 REAL
725 REAL On Demand
726 Hustler TV
727 Hustler TV On Demand
731 Manhandle
732 Manhandle On Demand
890 DZBB (Filipino Radio)
891 DWLS (Filipino Radio)
1682 NHK World HD
1717 Playboy HD

Movie Pass

431 Disney Family Movies On Demand
646 Sundance TV
665 Starz Encore On Demand
666 Starz Encore
667 Starz Encore Action
668 Starz Encore Classic
669 Starz Encore Suspense
670 Starz Encore Black
671 Starz Encore Westerns
672 Starz Encore Family
673 Fox Movie Channel
674 Flix
675 Independent Film Channel
1646 Sundance TV HD
1665 Starz Encore On Demand
1666 Starz Encore HD
1667 Starz Encore Action HD
1668 Starz Encore Classic HD
1669 Starz Encore Suspense HD
1670 Starz Encore Black HD
1673 Fox Movie Channel HD
1675 Independent Film Channel HD

Spanish Package

38 Foro TV
689 Galavision
690 Fox Deportes
691 CNN Español
692 Discovery en Español
693 ESPN Deportes
694 History en Español
695 Telemundo
696 NBC Universo
697 beIN SPORT en Español
698 Univision tlnovelas
1693 ESPN Deportes HD

Family Choice

780 Headline News
782 CSPAN 2
783 CSPAN 3
784 Do It Yourself Network
785 Home & Garden TV
786 Food Network
787 Discovery Life
788 Science Channel
789 Hub
790 Disney Channel
791 Disney XD
792 Boomerang
793 Teen Nick

Sports Pass

203 NFL Network
204 NFL RedZone
213 TVG
229 beIN SPORT
231 Fox Soccer Plus
232 Pac-12 Network
233 Pac-12 Network Los Angeles
234 Pac-12 Network Bay Area
235 Pac-12 Network Washington
236 Pac-12 Network Oregon
237 Pac-12 Network Arizona
238 Pac-12 Network Mountain
239 ESPN Classic
240 NHL Network
241 Fox Sports 2
242 NBA-TV
243 The Tennis Channel
244 Fox College Sports Atlantic
245 Fox College Sports Central
246 Fox College Sports Pacific
247 CBS Sports Network
248 Big Ten Network
275-282 ESPN College Extra
1203 NFL Network HD
1204 NFL RedZone HD
1229 beIN SPORT HD
1231 Fox Soccer Plus HD
1232 Pac-12 Network HD
1233 Pac-12 Network LA HD
1235 Pac-12 Network Washington HD
1236 Pac-12 Network Oregon HD
1239 ESPN Goal Line/Buzzer Beater
1240 NHL Network HD
1243 The Tennis Channel HD
1247 CBS Sports Network HD
1248 Big Ten Network HD

Pay-Per-View & Movies On Demand

1 Movies On Demand
81 KLIFE On Demand
254 UH iTV (seasonal)
255 OCSports PPV (seasonal)
256 OCSports PPV (seasonal)
260 Local PPV Events
620 Movies On Demand
680 NGN On Demand
701-703 iN DEMAND PPV
728 Asia After Dark
729 Asia After Dark 2
735 REAL XX.5
740 Adult Movies On Demand
741 Gay On Demand
751-760 NBA League Pass
761-774 Game 01-14 (MLB Extra Innings)
959 Hawaii Sports On Demand
980-989 Movies On Demand Top 10
990 Movies On Demand
991 Movies On Demand Hits
992 Movies On Demand Kids & Teens
1000 Movies On Demand
1254 UH iTV HD (seasonal)
1255 OCSports PPV HD (seasonal)
1256 OCSports PPV HD (seasonal)
1260 Local PPV Events HD
1701 iN DEMAND PPV HD
1740 HD Adult Movies On Demand
1751 Team HD (NBA League Pass HD)
1761 Game 1 HD (MLB Extra Innings 1 HD)
1762 Game 2 HD (MLB Extra Innings 2 HD)
1980-1989 Movies On Demand Top 10 HD
1990 Movies On Demand HD

EPIX

648 EPIX On Demand
649 EPIX 1 East
650 EPIX 1 West
651 EPIX 2
652 EPIX Hits
653 EPIX Drive-In
1649 EPIX 1 East HD
1650 EPIX 1 West HD
1651 EPIX 2 HD
1652 EPIX Hits HD

Music Choice

800-850 Music Choice Channels
851-888 Local Radio

Channel line-up subject to change. Some channels not available on all CableCARDS. High Definition TV Box and HDTV and/or 3DTV required for HD and 3D services. Digital TV Box required for interactive and VOD services.

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