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August 27, 2020

The Honorable Ajit Pai
FCC Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

The Honorable Michael O'Rielly
Commissioner
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

The Honorable Brendan Carr
Commissioner
Federal Communications Commission

445 12th Street SW
Washington, DC 20554

The Honorable Jessica Rosenworcel
Commissioner
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

The Honorable Geoffrey Starks
Commissioner
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Commissioners:

I am writing to you concerning an alleged abuse of the Federal Communications Commission's (FCC) public comment process on Charter Communications petition to sunset provisions of their 2016 merger approval agreement. The public comment process ensures that stakeholders are able to honestly communicate how an agency's actions could potentially impact them. The FCC should strive to preserve the integrity of this system.

As you may know, in May of 2016 the FCC approved the transfer of control of license and authorizations from Charter Communications, Inc., Time Warner Cable Inc, and Advance/Newhouse Partnership to a new company also named Charter Communications (Charter).¹ The approval of this merger was subject to several conditions, such as requiring Charter to "... offer broadband service at a discounted rate... requiring Charter to expand its broadband network to two million new customer locations, and prohibiting Charter from imposing data caps on

¹ *Applications of Charter Communications, Inc., Time Warner Cable, Inc., and Advance/Newhouse Partnership for Consent to Assign or Transfer Control of Licenses and Authorizations*, MB Docket No. 15-149, Memorandum Opinion and Order, 31 FCC Rcd 6327(2016) (*Charter Merger Order*). <https://docs.fcc.gov/public/attachments/FCC-16-59A1.pdf#page=3&zoom=auto,-150,398>

usage-based billing on its customers”.² These conditions are to remain in effect for seven years, but the approval agreement provides Charter the means to petition for relief.

On July 22, 2020 Charter formally petitioned the FCC to sunset two conditions relating to the merger approval agreement.³ Interested parties were entitled to file petitions and comments in support and in opposition to the agreement on or before August 6, 2020. Two days later – on July 24, 2020 Channel 2 WGRZ reported a story alleging that local non-profit organizations in Western New York had submitted letters and comments in support of sunseting Charter’s merger conditions following donations by Charter (see attached).⁴

Alleged “pay-for-comment” arrangements distort the public comment and rulemaking process in favor of special interests and undermine the system’s original intent. For these reasons, I am referring this matter to the FCC and requesting an investigation into whether improper conduct by the involved parties occurred.

Sincerely,

A handwritten signature in blue ink that reads "Brian Higgins". The signature is stylized with a large, sweeping "B" and a trailing flourish.

Brian Higgins
Member of Congress

² Ibid

³ “Petition by Charter Communications, Inc. to Sunset Merger Conditions”, DA/FCC#: DA-20-652, Released June 22, 2020, <https://www.fcc.gov/document/petition-charter-communications-inc-sunset-merger-conditions>

⁴ *Charter Regrets Misunderstanding with Niagara Falls Boys & Girls Club*, Nate Benson, WGRZ, July 24, 2020 <https://www.wgrz.com/amp/article/news/local/charter-regrets-misunderstanding-with-niagara-falls-boys-girls-club/71-f50b6957-dd26-4560-bb0c-d6d5828c1cd1>