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October 24, 2019

The Honorable Ajit Pai  
Chairman  
Federal Communications Commission  
455 12<sup>th</sup> Street SW  
Washington, DC 20544

Dear Chairman Pai:

I write regarding the *Petition for Determination of Effective Competition in 32 Massachusetts Communities and Kauai, HI* (MB Docket No. 18-283). This petition, submitted by Charter Communications, requests that the Federal Communications Commission (FCC) confirm that Charter faces effective competition, and should not be subject to fair pricing requirements for basic cable service and equipment. I have serious concerns that approval of this petition would lead to increased prices for Massachusetts Charter consumers and potentially others around the country.

Under the Communications Act of 1934 and the Telecommunications Act of 1996, franchising authorities such as local communities may ensure fair pricing for the basic cable service tier and equipment if cable systems are not subject to effective competition. In the petition currently before the Commission, the cable provider Charter seeks a finding that AT&T's DIRECTV NOW video programming service, a streaming service rebranded as AT&T TV NOW, provides effective competition to cable systems in 32 Massachusetts communities. Charter claims it has reached the requisite competition threshold and should not be subject to pricing regulation.

By authorizing this petition, the Commission risks opening the door to increased prices for consumers. Research shows that basic service tier cable rates are 50% higher in unregulated communities than they are in regulated communities,<sup>1</sup> and Charter has explicitly stated that if the Commission grants its petition, the company plans to almost double the rate paid by consumers that subscribe to the basic service tier in some communities.<sup>2</sup> This price increase would be

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<sup>1</sup> *In re Comm'ns Marketplace Report*, GN Docket No. 18-231, *Report*, FCC 18-181, paragraph 72 (Dec. 26, 2018).

<sup>2</sup> See *In re Petition of Charter Commc'ns, Inc. for a Determination of Effective Competition*, MB Docket No. 18-283, *Charter Notice of Ex Parte Presentation* (Mar. 7, 2019) (describing Charter's planned rate increases); *In re Petition of Charter Commc'ns, Inc. for a Determination of Effective Competition*, MB Docket No. 18-283, *MDTC Notice of Ex Parte Presentation* (Mar. 11, 2019).

especially harmful to vulnerable populations who subscribe to this type of offering, which is of particular concern given that the Massachusetts franchise areas at issue contain unemployment rates higher than the state average.<sup>3</sup> I urge you to strongly consider the implications of this petition on consumers and not take any steps that will subject Massachusetts viewers to higher prices.

I am also concerned that approval of Charter's petition risks creating problematic regulatory precedent. In considering non-cable offerings in this context, the Commission would effectively authorize analysis of "over-the-top" online video services in effective competition proceedings, without sufficient analysis of potential unintended consequences of this action. The Commission should instead take caution in its review of this petition and not take any steps that will harm consumers or weaken competition in the short-term or long-term. While the marketplace for video content has shifted considerably in recent years, your obligation to work in the best interest of the public remains today.

Thank you for your attention to this important issue.

Sincerely,

  
Edward J. Markey  
United States Senator

CC: The Honorable Michael O'Rielly, Commissioner  
The Honorable Brendan Carr, Commissioner  
The Honorable Jessica Rosenworcel, Commissioner  
The Honorable Jeffery Starks, Commissioner

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<sup>3</sup> See Mass.gov, Find Unemployment Rates, <http://lmi2.detma.org/lmi/data/12MonthAvg.xlsx> (last visited Oct. 22, 2019).