

January 29, 2018

Via Email and U.S. Mail

Ms. Catherine P. Awakuni Colón, Director
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 310
Honolulu, HI 96809

Re: **All-Digital Transition and Channel Lineup**

Dear Director Awakuni Colón:

Thank you for your letter dated January 22, 2018 (“DCCA Letter”). As noted in our letter to the Department of Commerce and Consumer Affairs (“DCCA”) and Olelo Community Media, dated January 3, 2018 (“Charter Notice to DCCA”), on February 6, 2018, Oceanic Time Warner Cable LLC (“Charter”) will be adjusting our channel lineup when we begin transitioning hubs located in our Oahu franchise in order to fulfill our commitment to transition virtually all of our cable systems to all-digital networks in accordance with Decision and Order No. 366 and Charter’s All-Digital Network Transition Plan.¹

The DCCA Letter raised concerns regarding the movement of PEG access channels and Charter’s notice to customers and requested that Charter respond to DCCA regarding these issues no later than January 29, 2018. Accordingly, Charter’s responses to the issues identified in DCCA Letter are provided below:²

1) *Address the reasoning for the movement of the PEG Access Channels and whether it is possible to retain their current placements.*

As part of our commitment to transition to all-digital, Charter is improving value to customers by providing additional HD channels and On Demand viewing options (e.g. increasing channel space/capacity), improving service quality on set-top boxes through two-way encrypted communication, and offering faster internet speeds starting at 200Mbps. Additionally, some channels will be added while other current channels will be moving to new locations.

¹ See DCCA Decision and Order No. 366, issued Dec. 17, 2015, at 24; Charter’s All-Digital Network Transition Plan for Hawaii, filed Nov. 16, 2016, at 5.

² See DCCA Letter, at 2.

Charter is changing the channel lineup to help our customers conveniently find their favorite programming. These channel lineup changes are not limited to PEG Access Channels. Other examples of channel lineup changes include, but are not limited to, broadcast channels, major networks, sports programming, and foreign language channels, depending on the cable service location. We are grouping together channels that offer similar genres (e.g. sports, news, kids & family). Specific to PEG Access Channels, Charter is providing a contiguous local public policy and government genre channel grouping that is consistent nationwide. The location of PEG Access Channels in this grouping will be consistent and reasonably contiguous statewide.

While Charter appreciates the concerns that have been raised by the PEG Access community, Charter believes that these changes will enhance our subscribers’ viewing experience. While technically it may be “possible” to leave the PEG Access Channel placements where they are today, doing so would be inconsistent with Charter’s national programming strategy, and Charter does not believe that doing so is the best way to meet the needs of our customers in Hawaii. Accordingly, Charter must exercise its discretion to revise its channel lineup in a way that we believe offers the best cable service experience for our customers in order to remain competitive in a market that now includes competitive cable operators, satellite providers, and over-the-top video providers, while still providing reasonable channel placement for PEG Access Channels and reasonable accommodations to assist viewers of PEG Access Channels to locate these channels.

2) Clarify the channels available through DTAs and whether PEG Access Channels would be included.

For clarification, all linear digital channels, including existing linear digital PEG Access Channels and analog PEG Access Channels that are being transitioned to digital format, will be available through DTAs in their new channel locations. There will be no change to the existing limitations associated with DTAs and subscribers with DTAs will be able to access PEG Access Channels on channels greater than 99, just as they can currently access Education Access Channels on digital channels 354, 355, and 356.

As previously acknowledged and agreed to by DCCA, DTAs are one-way devices with limited functionality that cannot access functions and services that require two-way functionality such as Pay-Per-View, Video On-Demand, and interactive program guides.³ As such, subscribers with

³ See also *In re Oceanic Time Warner Cable LLC*, CTV-2013-1, Stipulation to Settle All Claims of the Parties (Mar. 4, 2014), at 9 (“The . . . DTA or digital transport adapter, or the ‘basic box’[] allows analog Subscribers to view linear

DTAs do not currently have access to any On-Demand PEG Access Channels and will not gain access to them as a result of this transition. For these reasons, we continue to encourage subscribers to convert from DTAs to interactive set-top boxes in order to allow subscribers to take advantage of the full range of services and functionality available to them.

3) Provide confirmation that all subscribers will have access to the PEG Access Channels once the digital transition is completed.

Charter confirms that, once the digital transition is completed, all subscribers, including those with DTAs, will have access to all PEG Access Channels that are currently available to them. As noted above, subscribers with DTAs do not currently have access to any On-Demand PEG Access Channels and will not gain access to them as a result of this transition without upgrading to interactive set-top boxes. Subscribers with interactive set-top boxes will have access to all On-Demand PEG Access Channels. As part of the transition, we are making it easy for customers to receive one or more interactive set-top boxes at no cost for a limited promotional period depending on the customer’s programming package and other qualifying factors. As indicated in the letter sent to Charter’s customers, the Spectrum Receivers that will be provided to transitioning subscribers are capable of accessing interactive content, including all On-Demand PEG Access Channels.

4) If the letter sent to OTWC’s customers contains inaccurate information regarding channel availability, explain whether the letter constitutes sufficient notice of the transition and what remedies will be taken to correct any defect to the notice.

The letter sent to Charter’s customers provides sufficient notice under applicable state and federal law because it accurately describes the programming services for all channels, along with their current and post-transition channel position and tier, separately identifying each channel including those channels that will be added.

An inadvertent statement that “[o]nly Channels 2-99 are accessible using digital transport adapter (DTA) equipment,” contained in a recent letter sent to certain Charter customers was incorrect, and to avoid customer confusion, Charter will correct the letter before it is sent to future subscriber groups. Additionally, Charter will provide notice of the clarification to those subscribers who received the original notice.

analog PEG Access Channels that [Charter] migrates to digital format. This ‘basic box’ cannot access functions and services that require two-way functionality including but not limited to Pay-Per-View and VOD services.”)

Notwithstanding this clarification, the customer experience will not be adversely impacted, as subscribers with DTAs will continue to have access to linear digital channels beyond channel 99, including all linear PEG Access Channels.

In conclusion, Charter believes that all consumers will benefit from this transition with better picture quality, more HD channels and On Demand options, a more customer-oriented channel lineup, and increased broadband speeds starting at 200Mbps. Please be assured that, after the transition, all of Charter’s subscribers in Hawaii, including those who choose to continue using legacy DTAs, will continue to have access to the PEG Access Channels that are currently available to them and that all of the PEG channels will remain in Charter’s Basic cable service tier.

Thank you for the opportunity to share our thoughts and responses on these important issues.

Sincerely,



Laurence “Buz” Schott
Senior Director, Government Affairs, West Region

Cc: The Honorable Ronald D. Kouchi, President, Hawai‘i State Senate
The Honorable Scott K. Saiki, Speaker, Hawai‘i State House of Representatives
Ms. Ji Sook “Lisa” Kim, Cable Television Director, State of Hawai‘i, Department of Commerce and Consumer Affairs
Mr. Sanford Inouye, President & CEO, ‘Olelo Community Media