

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Cox Enterprises, Inc.	)	
Transferor,	)	
	)	
and	)	WC Docket No. 25-233
	)	File Nos. ITC-T/C-20250701-00030
Charter Communications, Inc.	)	ITC-T/C-20250706-00033
Transferee,	)	ITC-T/C-20250707-00035
	)	ITC-T/C-20250707-00036
Joint Application for Consent to Transfer	)	ITC-T/C-20250707-00037
Control of Domestic and International	)	
Section 214 Authorizations	)	

**COMMENTS OF  
THE FREE STATE FOUNDATION**

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**COMMENTS OF  
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**I. Introduction and Summary**

The Free State Foundation ("FSF") hereby responds to the Commission's request for comment on the joint application to transfer control of certain licenses from Cox Communications, Inc. ("Cox") to Charter Communications, Inc. ("Charter").<sup>1</sup> We evaluate the likely relevant impact that the proposed transaction would have – that is, how it might affect the public interest, convenience, and necessity – given the specifics of the proposal and, critically, the broader competitive context that exists today.<sup>2</sup> In short,

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\* These comments express the views of Randolph J. May, President of the Free State Foundation, and Andrew Long, Senior Fellow. The views expressed do not necessarily represent the views of others associated with the Free State Foundation. The Free State Foundation is an independent, nonpartisan free market-oriented think tank.

<sup>1</sup> See generally Public Notice, *Applications Filed for the Transfer of Control of Cox Communications, Inc. to Charter Communications, Inc.; Pleading Cycle Established*, WC Docket No. 25-233, DA 25-810 (released September 5, 2025), available at <https://docs.fcc.gov/public/attachments/DA-25-810A1.pdf> (Public Notice).

<sup>2</sup> See, e.g., 47 U.S.C. § 310(d) ("No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by

we find there is ample evidence that the proposed Charter/Cox transaction, if approved, would benefit consumers by invigorating competition in the broadband, mobile, and video marketplaces. We also conclude that, given the *de minimis* extent to which the applicants' footprints overlap and the indisputable widespread existence of competitive pressures, there appear to be no substantial transaction-specific harms that might offset those benefits.<sup>3</sup>

In a *Perspectives from FSF Scholars* published shortly after this transaction was announced, Andrew Long, co-author of these comments and a Free State Foundation Senior Fellow, cautioned against viewing this "merely as a proposed merger of two 'cable' companies" (emphasis added).<sup>4</sup> In fact, legacy video products seemed almost an afterthought. The Commission – consistent with Chairman Carr's stated intention to "keep the Gretzky test front and center" and focus on "on where the proverbial puck is going, not where it has been"<sup>5</sup> – appears to share that sentiment: the Wireline Competition Bureau (with responsibilities relating to fixed broadband), not the Media

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transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby." Consistent with the Free State Foundation's past practice, in this submission we do not specifically endorse or oppose the proposed transaction but rather assess the public interest criteria that should be used to evaluate the proposal.

<sup>3</sup> ; See, e.g., Statement of Commissioner Brendan Carr, *Applications of Level 3 Communications, Inc. and CenturyLink, Inc. For Consent to Transfer Control of Licenses and Authorizations*, WC Docket 16-403 (October 30, 2017), available at <https://docs.fcc.gov/public/attachments/FCC-17-142A5.pdf> ("I am also glad that the standard of review and public interest framework in today's decision make it clear that this Commission will be adhering to the Communications Act and longstanding FCC precedent as it reviews proposed transactions. In particular, the Order emphasizes that the agency will only impose merger conditions that are narrowly tailored to remedy transaction-specific harms. We will not be using them as a vehicle to extract extraneous concessions from parties.").

<sup>4</sup> Andrew Long, "The Proposed Charter-Cox Merger: A Pro-Consumer Response to Today's Competitive Communications Marketplace," *Perspectives from FSF Scholars*, Vol. 20, No. 28 (June 10, 2025), available at <https://freestatefoundation.org/wp-content/uploads/2025/06/The-Proposed-Charter-Cox-Merger-061025.pdf>, at 1.

<sup>5</sup> Remarks of FCC Chairman Brendan Carr, Sioux Falls, South Dakota, "A Build Agenda for America" (July 2, 2025), available at <https://docs.fcc.gov/public/attachments/DOC-412663A1.pdf>, at 3.

Bureau (tasked with video programming concerns), was chosen to take the lead in evaluating the proposal.

Which, of course, makes sense. In 2025, the "proverbial puck" navigates a communications marketplace increasingly populated by upstart alternatives to cable operators' traditional offerings: fixed wireless access (FWA), fiber-to-the-home (FTTH), and low-Earth orbit (LEO) broadband offerings on the one hand and countless streaming video options on the other. As the applicants explained in their Public Interest Statement, they "face playing fields filled with varied new options for consumers. The Transaction will enhance the combined company's ability to strive for consumers' business in a crowded landscape in competition with larger rivals that lead each of the key sectors in which it will operate."<sup>6</sup> In our view, this statement is true, and it is key to assessing the public benefits of the transactions.

Specifically, the applicants assert that, through the greater scale that their combination would produce, they would be better positioned – through expanded efficiencies,<sup>7</sup> increased investment opportunities, and an enhanced ability to innovate – to staunch subscriber losses to broadband rivals. They also would be able to apply Charter's proven success as a mobile operator in the footprint of Cox, a relative newcomer in the mobile services field. In addition, they would create additional jobs for Americans by

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<sup>6</sup> Public Interest Statement, *In the Matter of Cox Enterprises, Inc. Transferor, and Charter Communications, Inc. Transferee, Joint Application for Consent to Transfer Control of Domestic and International Section 214 Authorizations*, WC Docket 25-233 (filed July 14, 2025), available at <https://www.fcc.gov/ecfs/document/10715141122783/2>, at 4 (*Public Interest Statement*).

<sup>7</sup> See, e.g., Charter Communications, Inc. Press Release, "Charter Communications and Cox Communications Announce Definitive Agreement to Combine Companies" (May 16, 2025), available at <https://corporate.charter.com/newsroom/charter-communications-and-cox-communications-announce-definitive-agreement-to-combine-companies> ("Charter also currently expects approximately \$500 million of annualized cost synergies achieved within three years of close – stemming from typical procurement and overhead savings.").

"onshoring" Cox customer-service positions. Lastly, they would expand Charter's "if you can't beat them, join them" video strategy – which offers subscribers access to popular streaming services at no additional cost – as an option to Cox video subscribers (while preserving their current packages).

Moreover, given that the FCC is considering allowing greater concentration in local broadcast television station ownership to facilitate competition vis-à-vis Big Tech platforms with global reach – a one-sided deregulatory step that inevitably would further skew retransmission consent negotiations<sup>8</sup> – it would seem appropriate to afford the applicants similar relief here. This is especially so because the applicants' geographic overlap regarding mass-market service offerings is less than 0.1 percent, a fact that should render moot any concerns relating to the diminution of existing competition.

## **II. Legacy Services – Broadband and Video – Face Daunting Competition**

Broadly speaking, cable operators such as the applicants are subject to immense competitive pressure in the broadband marketplace: according to one report, they lost approximately 332,000 subscribers during the first three months of this year.<sup>9</sup> And as Mr. Long documented in the *Perspectives* regarding the proposed transaction referenced above, Charter specifically has sustained significant broadband subscriber losses over the last few years, including 177,000 subscribers in the fourth quarter of 2024 and 60,000

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<sup>8</sup> See generally Comments of the Free State Foundation, *In the Matter of Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule*, MB Docket No. 17-318 (filed August 4, 2025), available at <https://freestatefoundation.org/wp-content/uploads/2025/08/FSF-Comments-FCC-National-Television-Ownership-Cap-Proceeding-080425.pdf>, at 2-3 ("Equally important for public policymakers to consider, however, is the consequence that one-sided (that is to say, asymmetric) relief for broadcasters would have on the still heavily regulated relationship between local television stations and facilities-based MVPDs.").

<sup>9</sup> See Mike Dano, "When will FWA run out of steam?" *Light Reading* (May 8, 2025), available at <https://www.lightreading.com/fixed-wireless-access/when-will-fwa-run-out-of-steam>.

subscribers in the first quarter of 2025.<sup>10</sup> After that Free State Foundation piece was published, Charter released its financial results for the second quarter of this year. They revealed a loss of an additional 117,000 subscribers.<sup>11</sup>

By contrast, FWA, FTTH, and LEO satellite offerings have been adding subscribers at a breakneck clip. As the authors described in comments filed in the latest Section 706 inquiry, T-Mobile added 1.7 million FWA subscribers in 2024 while in just the fourth quarter of that year Verizon added 373,000 subscribers and AT&T added 158,000 subscribers. The number of homes with access to FTTH services increased by 13 percent in 2024, from 69 million to 76.5 million unique U.S. homes. And Starlink's LEO satellite-based offering reported in July that it has over 2 million customers in the U.S. – compared to 1.3 million as of December 2023.<sup>12</sup>

With respect to video, the decline has been both more prolonged and more extreme. In a March 2025 *Free State Foundation Perspectives*, Mr. Long noted that Charter lost 1.23 million subscribers in 2024 – 8.7 percent of its base.<sup>13</sup> In the first quarter of 2025, Charter shed an additional 181,000 subscribers,<sup>14</sup> and in the second

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<sup>10</sup> See Andrew Long, "The Proposed Charter-Cox Merger: A Pro-Consumer Response to Today's Competitive Communications Marketplace," *Perspectives from FSF Scholars*, Vol. 20, No. 28 (June 10, 2025), available at <https://freestatefoundation.org/wp-content/uploads/2025/06/The-Proposed-Charter-Cox-Merger-061025.pdf>, at 2.

<sup>11</sup> See Charter Communications, Inc., "Charter Announces Second Quarter 2025 Results" (July 25, 2025), available at <https://ir.charter.com/static-files/f6defba4-4e2e-4a6a-bc09-b42873312c4f>, at 1. Cox, a privately owned company, does not regularly make available subscriber totals.

<sup>12</sup> See Comments of the Free State Foundation, *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 25-223 (filed September 8, 2025), available at <https://freestatefoundation.org/wp-content/uploads/2025/09/Section-706-Inquiry-Initial-Comments.090825.pdf>, at 7-9.

<sup>13</sup> See Andrew Long, "No Basis Exists in 2025 for Rules Targeting Traditional Video Providers," *Perspectives from FSF Scholars*, Vol. 20, No. 13 (March 6, 2025), available at <https://freestatefoundation.org/wp-content/uploads/2025/03/No-Basis-Exists-in-2025-for-Rules-Targeting-Traditional-Video-Providers-030625.pdf>, at 3.

<sup>14</sup> See Charter Communications, Inc., "Charter Announces Second Quarter 2025 Results" (July 25, 2025), available at <https://ir.charter.com/static-files/36429e69-f363-4dc9-99cd-fa2ee637d2fd>, at 2.

quarter, 80,000 more.<sup>15</sup> In their Public Interest Statement, the applicants report that "from 2016 to today, Charter's number of video subscribers has declined by over a quarter and Cox's has declined by about half."<sup>16</sup> These declines, which are not subject to dispute, reflect dramatic changes in the video marketplace that cannot be ignored.

On the other side of the coin, streaming services – including those owned by Big Tech platforms – have steadily added subscribers and captured an increasing amount of consumer attention. Nielsen reported that, in August, Americans viewed streaming services nearly five percent more than broadcast and pay TV services combined: 46.4 percent versus 41.6 percent.<sup>17</sup>

In the fourth quarter of 2024, the last time it reported subscriber totals, Netflix reported adding 4.82 million subscribers in the U.S. and Canada, for a total of 89.63 million subscribers – over seven times more than Charter's 12.631 million subscribers.<sup>18</sup> According to the Public Interest Statement, Amazon Prime customers exceed "180 million, making it the largest global premium ad-supported streaming service."<sup>19</sup> Over the last several months Alphabet/Google's YouTube consistently has captured the largest share of viewing time, including 13.1 percent in August.<sup>20</sup> In addition, its YouTube TV

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<sup>15</sup> See Charter Communications, Inc., "Charter Announces Second Quarter 2025 Results" (July 25, 2025), available at <https://ir.charter.com/static-files/f6defba4-4e2e-4a6a-bc09-b42873312c4f>, at 2.

<sup>16</sup> *Public Interest Statement* at 6.

<sup>17</sup> Nielsen's The Gauge™ (August 2025), available at <https://www.nielsen.com/data-center/the-gauge/>.

<sup>18</sup> See Netflix Letter to Shareholders (January 21, 2025), available at [https://s22.q4cdn.com/959853165/files/doc\\_financials/2024/q4/FINAL-Q4-24-Shareholder-Letter.pdf](https://s22.q4cdn.com/959853165/files/doc_financials/2024/q4/FINAL-Q4-24-Shareholder-Letter.pdf), at 8.

<sup>19</sup> *Public Interest Statement* at 49.

<sup>20</sup> See Nielsen Press Release, "Disney and FOX Gain Turf in August as Football's Return Kicks Off Seasonal Shifts, according to Nielsen" (September 23, 2025), available at <https://www.nielsen.com/news-center/2025/disney-and-fox-gain-turf-in-august-as-footballs-return-kicks-off-seasonal-shifts-according-to-nielsen/>.



virtual multichannel video programming distributor (vMVPD) is expected to become the largest MVPD overall by the end of next year.<sup>21</sup>

### **III. The Proposed Transaction Could Breathe New Life Into the Combined Entity's Ability to Compete Effectively in Broadband and Video**

The applicants argue in their Public Interest Statement that the transaction, if approved, would invigorate the combined entity's efforts to enhance competition – and thereby benefit consumers through lower costs, greater choice, and accelerated innovation. We agree.

On the broadband side, specific benefits identified include: offering Charter's lower-priced packages to Cox customers (while continuing to support existing options); accelerated investment in network infrastructure, enabled by greater scale/lower costs and resulting in faster speeds, including DOCSIS 4.0 upgrades in the Cox footprint; and reduced per-unit pricing for tailored consumer premise equipment.<sup>22</sup> Notably, Charter offers "simple and transparent residential retail rates that are consistent across its footprint,"<sup>23</sup> an additional check – beyond the robust, multimodal competition that exists – against any pricing-related concerns regarding the *de minimis* overlap in the applicants' geographic footprints.

Regarding video, the applicants commit to "consumers in Cox's footprint gaining access to Charter's more innovative and competitive video products."<sup>24</sup> These include "skinnier" packages available at lower costs, packages that are bundled with popular

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<sup>21</sup> See Jeff Baumgartner, "YouTube TV set to become top US pay-TV provider by 2026 – analyst," *Light Reading* (April 1, 2024), available at <https://www.lightreading.com/video-streaming/youtube-tv-set-to-become-top-us-pay-tv-provider-by-2026-analyst>.

<sup>22</sup> See generally *Public Interest Statement* at 32-36.

<sup>23</sup> *Id.* at 33.

<sup>24</sup> *Id.* at 51.

streaming services, and the Spectrum TV app. Again, Cox customers would be able to continue to subscribe to their existing packages if they so choose.<sup>25</sup>

#### **IV. The Proposed Transaction Could Enhance Mobile Competition**

Beyond its impact on legacy products, the proposed transaction could expand mobile competition. Charter's Spectrum Mobile, currently with over 10 million mobile lines, "is the fastest growing mobile wireless service in the United States."<sup>26</sup> At the other end of the spectrum is Cox, a relative newcomer to this space that only began offering service "ubiquitously" in January 2023.<sup>27</sup> In his recent *Perspectives*, co-author Mr. Long cited an estimate that Cox had only approximately 200,000 mobile lines.<sup>28</sup>

According to the Public Interest Statement, approval of the proposed transaction "will expand the reach of a higher-quality, lower-priced mobile wireless product, delivering these benefits to consumers within the Cox territory."<sup>29</sup> The applicants also identify savings relating to offloading via Wi-Fi and CBRS infrastructure, greater scale, and expanded geographic scope.<sup>30</sup> While competition is most durable and sustainable when service providers are facilities-based, that is, they own and operate their own platforms, there is little doubt that the mobile services now being offered by cable operators increase competitive pressure in the wireless marketplace.

#### **V. Conclusion**

As explained above, the combination of Charter and Cox promises numerous consumer benefits. These include lower costs, greater choice, and additional innovation

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<sup>25</sup> See generally *id.* at 51-55.

<sup>26</sup> *Id.* at 37.

<sup>27</sup> *Id.* at 38.

<sup>28</sup> See Jeff Bumgardner, "Unpacking the Charter-Cox deal," *Light Reading* (May 19, 2025), available at <https://www.lightreading.com/cable-technology/unpacking-the-charter-cox-deal>.

<sup>29</sup> *Public Interest Statement* at 42.

<sup>30</sup> See *id.* at 43-45.

in traditional cable offerings (broadband and video) fostered by an enhanced ability to compete with often much larger rivals, including Big Tech platforms with global reach; (2) the expansion of Charter's hybrid MVNO offering into Cox's footprint combined with lower costs through greater scale; and (3) the "onshoring" of Cox customer-service jobs. And given the lack of any meaningful overlap in service territories, not to mention the high level of third-party competition in all three marketplace sectors, there appears to be little, if any, basis for concern that the transaction could result in significant harms.

Respectfully submitted,

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