

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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UNIVISION COMMUNICATIONS INC., :
UNIVISION NETWORKS AND STUDIOS, INC., :
UNIVISION LOCAL MEDIA INC., :
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Plaintiffs, :
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v. :
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CHARTER COMMUNICATIONS, INC., CHARTER :
COMMUNICATIONS HOLDING COMPANY, LLC, :
TIME WARNER CABLE ENTERPRISES LLC, :
:
Defendants. :
:
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Index No. \_\_\_\_\_

**Jury Trial Requested**

**COMPLAINT**

Plaintiffs Univision Communications Inc. (“UCI”), Univision Networks and Studios, Inc. (“UNS”) (as successor-in-interest to UCI, Univision Network Limited Partnership, Telefutura, Inc. and Galavision, Inc.), and Univision Local Media Inc. (“ULM,” and collectively with UCI and UNS, “Plaintiffs” or “Univision”), by their attorneys, complain and allege against Defendants Charter Communications, Inc. (“New Charter”), Charter Communications Holding Company, LLC (“Charter Holding,” individually or together with its affiliates, “Charter”), and Time Warner Cable Enterprises LLC (as successor-in-interest to Time Warner Cable, LLC) (“TWCE”) (collectively, “Defendants”), as follows:

**STATEMENT OF THE CASE**

1. Univision is the leading Hispanic media company in the United States, serving as a vital source of Spanish- and English-language news, sports, and entertainment for the U.S.

Hispanic community through 17 broadcast, cable and digital networks, and strategic partnerships, as well as 59 local television stations. It provides its highly-valued programming content to cable, satellite, telecom, and online video distributors throughout the United States pursuant to distribution agreements that require that such distributors compensate Univision for its content with license fees.

2. On May 18, 2016, one of Univision’s largest distributors, Charter, acquired another of Univision’s largest distributors, Time Warner Cable, Inc. and related entities (collectively, “TWC”), in a \$71.4 billion dollar deal that created the second-largest cable distributor in the U.S. (the “Acquisition”). New Charter—the resulting company—is now flagrantly breaching Univision’s contract with Charter by using the Acquisition as a pretext to unilaterally impose license fees that are dramatically below current market license fees for Univision’s valuable content. In particular, New Charter points to corporate machinations that occurred on the day the Acquisition closed to argue that it is TWC, rather than Charter, that is managing all of the legacy Charter and TWC cable systems. But everyone knows that is simply not true: the longstanding CEO and the senior executive team of Charter, as well as its pre-existing board of directors, now in fact manage and control all such cable systems, and virtually the entire TWC leadership team has departed.

3. Prior to the Acquisition, Univision licensed its programming to Charter pursuant to a 2014 distribution agreement that was due to expire on June 30, 2016 (the “Charter Agreement”). That agreement contained a heavily-negotiated provision concerning corporate acquisitions that governs the precise situation here: if Charter or any of its Affiliated Companies acquired the distribution systems of another distributor, the purchased distributor would remain subject to the operative agreement between Univision and that other distributor, but only until

the end of the calendar year in which the acquisition occurred. After that time, the Charter Agreement would govern the acquired systems.

4. The Acquisition clearly triggered this provision. When the Acquisition closed on May 18, 2016, the legacy Charter systems (the “Legacy Charter Systems”) continued to be governed by the Charter Agreement and, pursuant to this negotiated provision, the legacy TWC systems (the “Legacy TWC Systems”) were to be governed by the prior TWC agreement, *but only until December 31, 2016*.

5. Disregarding its clear contractual commitments, New Charter now implausibly asserts that through June 2022, the prior TWC agreement not only governs the Legacy TWC Systems, but also grants it the right to distribute Univision’s programming on the *Legacy Charter Systems* over the same period. New Charter rests these unbelievable claims on a clause in the prior 2009 distribution agreement between Univision and TWC (the “TWC Agreement”) that defines “Systems” governed by that agreement. New Charter points to the definition of “System” as defined, in relevant part, as one “that is *managed* with respect to programming matters by a Time Warner Company . . .” (emphasis added). By its own plain terms, however, the TWC Agreement cannot apply because, following the Acquisition, TWC clearly does not *manage* any of the cable systems at issue, as Defendants themselves have repeatedly stated and as they have demonstrated incontrovertibly through their actions.

6. Charter’s untenable position that TWC now manages all of the Legacy Charter Systems and Legacy TWC Systems contradicts dozens of Charter’s public statements, Securities and Exchange Commission filings made pursuant to the federal securities laws, and other regulatory filings. These statements and filings were made to sell Wall Street investors, shareholders, and regulators on the core argument that *Charter’s* pre-Acquisition leadership and

management team would manage all of the systems—*i.e.*, the Legacy Charter Systems and the Legacy TWC Systems—under the auspices of New Charter following the Acquisition, and that New Charter would run the combined entity with improved technology, customer service, and general user experience. To give but a few examples:

- “Under the leadership of *Charter’s management team*, the merged company will have both the incentives and resources to *double down on Charter’s existing pro-customer and pro-broadband model and extend it to Time Warner Cable* and Bright House Networks’ significantly larger footprint.”<sup>1</sup> (Exhibit (“Ex.”) 1)
- “*New Charter will own and/or manage systems* serving approximately 19.4 million broadband customers, 17.3 million video customers, and 9.4 million voice customers across 41 states.” (Ex. 2)
- “*Charter’s leadership team* is considered one of the best in the industry and, following the transaction, will remain focused on innovation, competition, customer service, and service quality.” (Ex. 3)

Expressly relying on the above statements and other similar statements regarding New Charter’s corporate structure and management, the Federal Communications Commission, the U.S. Department of Justice, the New York State Public Service Commission, and the California Public Utilities Commission each approved the Acquisition.

7. Charter’s pre-Acquisition promises are all entirely consistent with the actual actions taken by New Charter *after* the closing of the Acquisition, whereby *Charter’s* pre-Acquisition management team and board of directors assumed complete control and management over all of the cable systems. As noted above, the CEO, senior corporate officers, senior programming executives, and board of directors of Charter have virtually all continued in their same roles at New Charter. Conversely, virtually all of TWC’s senior leadership team—

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<sup>1</sup> As part of the transaction, New Charter also acquired Bright House Networks (“Bright House”) for an additional \$10.4 billion, adding Bright House cable systems and its over two million video subscribers to its footprint. Bright House, too, is a part of the TWC Agreement, and its cable systems are included herein as part of the Legacy TWC Systems.

including its former CEO—has departed, and not a single TWC director joined the board of directors of New Charter.

8. Before the close of the Acquisition on May 18, 2016, Univision attempted to engage in renewal negotiations with Charter. Charter responded with stalling, obfuscation, and refusal. Shortly after the close of the Acquisition, and with the expiration of the Charter Agreement on June 30 still more than a month away, Univision reached out to Charter again in order to negotiate a long-term extension. Specifically, Univision contacted Allan Singer, Charter’s Senior Vice President of Programming, on multiple occasions in late May and early June, 2016. Mr. Singer, who retained his same position at New Charter following the Acquisition, first delayed even speaking to Univision. On June 10, 2016, in yet another effort to engage New Charter in negotiations, Univision made a detailed renewal proposal relating to numerous terms and conditions, such as digital rights and license fees. Mr. Singer responded by flatly refusing to negotiate a renewal with Univision. Instead, he purported to unilaterally “elect” to distribute Univision programming across hundreds of Charter and TWC cable systems pursuant to the terms of the TWC Agreement until June 2022. Mr. Singer rested his claim upon the blatant fiction that TWC—and not the pre-Acquisition Charter team running New Charter—now “manages” all of those cable systems.

9. With the expiration of the Charter Agreement looming on June 30, 2016, Univision faced the prospect that subscribers to the Legacy Charter Systems would lose access to Univision’s valuable news, sports, and entertainment programming, which was of particular concern in an election year, when Univision’s in-language and in-culture news and information is especially important to Hispanic America. Although it would have been within its rights to withhold its programming from distribution on Legacy Charter Systems as of June 30, Univision

offered a six-month extension of the Charter Agreement that same day in the hope of providing the parties with additional time to engage in good-faith renewal negotiations without any disruption of service.<sup>2</sup>

10. Univision's good-faith effort to create time for negotiations proved futile. Just a few hours after Univision issued its extension, Mr. Singer pronounced, despite the plain and unambiguous terms of the Charter Agreement, that New Charter's "distribution of the Univision services shall be pursuant to the terms of the TWC Agreement." Univision was thus compelled to bring this action for a declaratory judgment as to the rights and obligations of the parties under the Charter and TWC Agreements.

11. It is apparent that New Charter is resorting to transparently constructed, pretextual arguments concerning the purported structure of the Acquisition to shoehorn the Legacy Charter Systems and Legacy TWC Systems as "Systems" under the TWC Agreement, and thus evade its contractual obligations to Univision. In this Complaint, Univision therefore requests clarity regarding the parties' rights and obligations, and brings this action for a declaratory judgment that (i) the Charter Agreement governed the Legacy Charter Systems until its expiration on June 30, 2016; (ii) the license fees provided in the TWC Agreement apply to only the Legacy TWC Systems and only through December 31, 2016; (iii) the TWC Agreement will terminate as of December 31, 2016; and (iv) New Charter is not a Time Warner Company, as defined in the TWC Agreement, and it manages both the Legacy Charter Systems and the Legacy TWC Systems.

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<sup>2</sup> No extension was necessary for the Legacy TWC Systems because under the terms of the Charter Agreement, the TWC Agreement would remain in effect for the Legacy TWC Systems until December 31, 2016.

12. As further alleged below, Charter and/or New Charter have also breached the Charter Agreement through a purported “election” to apply the clearly inapplicable TWC Agreement, including its inapplicable TWC license fees, to the Legacy Charter Systems and Legacy TWC Systems after, respectively, June 30, 2016, and December 31, 2016. Such conduct has damaged Univision, as Charter and/or New Charter’s refusal to fairly negotiate a renewal, including current market license fees and other key terms, has resulted in Univision receiving below current market license fees for the Legacy Charter Systems rather than its currently prevailing market license fees and terms, which it could obtain in a good-faith renewal negotiation.

### **JURISDICTION AND VENUE**

13. This Court has jurisdiction over this action pursuant to CPLR § 3001 because an actual, present, and justiciable controversy exists between the parties, and pursuant to 22 N.Y. Comp. Codes R. & Regs. tit. 22, § 202.70, because the breach of contract claim arises out of business dealings and the monetary threshold of \$500,000 is satisfied.

14. This Court has jurisdiction over defendants pursuant to CPLR §§ 301 and 302 because each defendant transacts business in the State of New York and because a substantial portion of the acts and omissions giving rise to this action occurred in New York.

15. Venue is proper in this Court pursuant to CPLR § 503 because at least one of the parties resides in this County at the time this action was commenced, and the Defendants are all subject to personal jurisdiction here. Venue is also proper in this Court pursuant to CPLR § 501.

### **PARTIES**

16. UCI is a Delaware corporation with its principal place of business at 605 Third Avenue, 12th Floor, New York, New York 10158. The leading Hispanic media company in the United States, UCI traces its roots back to KWEX-TV in San Antonio, Texas— the first full-time

Spanish-language television station in America. From that modest beginning, UCI has established itself as a multi-faceted media company and the leading provider of high quality Spanish-language content in the United States. The Univision broadcast television network is the most-watched Spanish-language broadcast television network in the country. Through its Spanish- and English-language content, UCI offers vital news, sports, and entertainment programming, and is an indispensable media outlet for Hispanic America. The Univision broadcast network is one of the largest in the United States, reaching 96 percent of U.S. Hispanic television households, and regularly outperforms the national English-language broadcast networks in key demographics and regardless of language.

17. UNS is a California corporation with its principal place of business at 9405 N.W. 41st Street, Miami, Florida. UNS is a party to the relevant agreements.

18. ULM is a Delaware corporation, wholly owned by UCI, with its principal place of business at 605 Third Avenue, 12th Floor, New York, New York 10158. ULM is a party to the relevant agreements.

19. Defendant New Charter is a publicly held corporation, incorporated in Delaware and headquartered in Stamford, Connecticut. New Charter provides broadband Internet, video, voice, and business services to approximately 23.9 million customers across 41 states, including in New York. It owns and manages cable systems serving approximately 17.3 million video customers, making it the second-largest cable operator in the United States.

20. Defendant Charter Holding, a party to the Charter Agreement, is a Delaware limited liability company, and a direct or indirect subsidiary of Charter Communications, Inc.

21. Defendant TWCE is a Delaware limited liability company, and is the successor-in-interest to Time Warner Cable LLC (TWC LLC) with respect to the TWC Agreement. Prior

to the Acquisition, TWCE was a wholly owned subsidiary of TWC, a cable operator that provided broadband Internet, video, and voice services to over 15 million customers across 30 states, and cable services to approximately 10.8 million residential customers, including in New York. Following the Acquisition, New Charter is the parent company of the surviving TWCE entity.

## **FACTS**

### **I. The Charter Agreement**

22. In 2014, Univision and Charter Holding entered into the Charter Agreement, with an effective date of January 1, 2014. Charter’s Senior Vice President of Programming, Allan Singer, negotiated, authorized, and signed the Charter Agreement, and Charter thereby agreed to be bound to its terms.

23. The Charter Agreement grants Charter Holding the right to distribute Univision local broadcast stations and cable networks (the “Univision Services”) on certain “Affiliate Systems” owned and operated by Charter during the term of the Agreement in exchange for, *inter alia*, the payment of monthly license fees.

24. Univision fully performed all of its obligations under the Charter Agreement.

25. The Charter Agreement expired on June 30, 2016, but Univision unilaterally offered to extend it for a six-month period, as noted above.

### **II. Charter Acquires TWC**

26. In or around May 2015—a little over a year after the execution of the Charter Agreement—Charter announced its plan to acquire TWC for an estimated \$55 billion. Under the proposed acquisition, Charter was to acquire all of TWC’s cable systems, adding over 10 million video subscribers to its video footprint, in order to compete more effectively with larger multichannel video programming distributors (“MVPDs”) like Comcast and AT&T.

27. The vehicles for the proposed transaction included three subsidiaries created for purposes of the Acquisition (Amazon Corporation I, Inc., Amazon Company II, LLC, and Amazon Company III, LLC), and a pre-existing subsidiary of Charter (and affiliate of Charter Holding), CCH I, LLC (referred to in the acquisition agreement and subsequent regulatory filings as “New Charter”). Charter, in its capacity as sole manager of the merger subsidiary that acquired TWC, Inc., signed the certificates of merger and otherwise controlled that merger subsidiary during the Acquisition.

28. As a result of the Acquisition—which closed on or around May 18, 2016—Charter acquired, and now controls and manages *all* of the Legacy TWC Systems and TWC ceased to exist. New Charter became the ultimate corporate parent of all surviving Charter and TWC entities.

29. Following the close of the Acquisition, New Charter was renamed “Charter Communications, Inc.” (the same entity name that Charter employed prior to the Acquisition), and trades under the same ticker symbol on NASDAQ (“CHTR”) as did Charter prior to the Acquisition.

30. Prior to completion of the Acquisition, Charter was the sole stockholder of New Charter.

31. Upon information and belief, the Acquisition was specifically designed to retain Charter control over the Legacy Charter Systems and to bring Legacy TWC Systems under Charter’s management and control. And this is what, in fact, occurred. Indeed, Defendants went to great lengths to create a vehicle for the Acquisition that would allow for Charter and its executive leadership and board of directors—to the exclusion of the TWC executive leadership

team and board members, who were immediately displaced—to manage and control the combined entity’s cable video business upon completion of the Acquisition.

### **III. The Charter Agreement Governs This Precise Scenario**

32. The Charter Agreement includes specific and express terms governing the exact situation presented here, whereby Charter or an affiliated company of Charter acquired or otherwise combined with another distributor. Univision negotiated these terms directly and extensively with Mr. Singer, Charter’s Senior Vice President of Programming. These terms provide, in essence, that if Charter or an affiliated company of Charter acquires the systems of another distributor, the Charter Agreement will govern the acquired systems as well.

33. Specifically, Section A.1(d) of the Charter Agreement (“Affiliate’s System(s)”) provides that an “Affiliate System” can be either pre-existing or “hereafter added pursuant to Section I.3.”

34. In turn, Section I.3(e) of the Charter Agreement expressly provides for the addition of systems acquired as a result of an “MSO Acquisition” (*i.e.*, an acquisition of another distributor such as TWC) by “Affiliate [*i.e.*, Charter Holding] or an Affiliated Company of Affiliate.”

35. Section I.3(e) of the Charter Agreement provides as follows:

**In the event that Affiliate [*i.e.*, Charter Holding] or an Affiliated Company of Affiliate (i) acquires all or substantially all of the video distribution systems of an Other Distributor, whether through the purchase, assumption or any other acquisition of assets, stock or other equity interests, or (ii) combines with an Other Distributor, whether by merger, consolidation, recapitalization or any other combination (including, without limitation, pursuant to a transaction that results in the formation of a successor entity or an Affiliated Company) such that Affiliate or an Affiliated Company of Affiliate is the surviving and governing entity . . . . (each of the transactions described in the foregoing clauses (i) and (ii) of this Section I.3(e), an “MSO Acquisition,” and each such acquired video distribution system, an “MSO Acquired System”), then (A) effective as of the closing of the MSO Acquisition (each, an “MSO Acquisition Closing”), such MSO Acquired System(s) will (1) remain subject to the terms of the Other Applicable Agreement(s) (and Affiliate shall assume the**

obligations with respect to such MSO Acquired System(s) pursuant to such Other Applicable Agreement(s)) from the date of the MSO Acquisition Closing through the last day of the calendar year in which such MSO Acquisition Closing occurs . . . and (2) become subject to the terms of this Agreement effective as of the first day of the calendar year immediately following the MSO Acquisition Closing (the “MSO Acquisition Transition Date”), and (B) such Other Applicable Agreement(s) shall terminate and cease to be of any further force or effect with respect to such Acquired System(s) as of the MSO Acquisition Transition Date (emphasis added).

36. Section A.1(b) of the Charter Agreement defines an “Affiliated Company” as including any other person or entity that is “directly or indirectly controlling, controlled by, or under common control with” Charter Holding.

37. Section A.1(x) of the Charter Agreement defines an “Other Distributor” as including any “entity other than Affiliate or an Affiliated Company of Affiliate” that distributes “one or more of the [Univision] Services.”

38. TWCE is an “Other Distributor” as defined in the Charter Agreement.

39. Section I.3(e) of the Charter Agreement therefore operates as follows:

- Each “video distribution system” acquired as a result of an “MSO Acquisition” constitutes an “MSO Acquired System”;
- An “MSO Acquired System[.]” remains subject to an Other Applicable Agreement through the last day of the calendar year in which the MSO Acquisition Closing occurs;
- After the last day of the calendar year in which the acquisition occurred, the Other Applicable Agreement “shall terminate and cease to be of any further force or effect”; and
- The MSO Acquired Systems are then subject to the Charter Agreement on the first day of the calendar year immediately after the year the MSO Acquisition.

40. Additionally, Section I.3 of the Charter Agreement specifies that the above terms “shall apply” “[n]otwithstanding anything to the contrary included in any . . . Other Applicable Agreement.”

41. The Acquisition falls squarely within the ambit of the Charter Agreement’s “MSO Acquisition” provision. Specifically, an “Affiliated Company”—*i.e.*, Charter—“acquire[d] all or substantially all” of the cable systems of TWC or otherwise “combine[d]” with TWC, as part of a transaction in which New Charter was the “surviving and governing” entity as the ultimate corporate parent. The Charter Agreement therefore controls both the Legacy Charter Systems and the Legacy TWC Systems after the closing of the Acquisition. As a result, on May 18, 2016, New Charter’s rights to distribute Univision programming on Legacy Charter Systems were set to expire on June 30, 2016, and its rights to distribute Univision programming on Legacy TWC Systems were set to expire on December 31, 2016.

**IV. Univision Seeks To Engage In Renewal Negotiations; Charter’s Head of Programming Refuses to Negotiate**

42. Recognizing that the Acquisition plainly triggered the MSO Acquisition provision of the Charter Agreement, and in anticipation of the expiration of the Charter Agreement on June 30, 2016, Univision reached out repeatedly to Charter executives in an effort to engage in renewal discussions, including with respect to license fees and other key terms (*e.g.*, digital distribution).

43. Specifically, on March 15, 2016, Univision first conducted a call with Mr. Singer, the Charter executive who, as noted above, negotiated, authorized, and signed the Charter Agreement. During that call, Mr. Singer stated that he would not begin *any* discussions about the extension until after the Acquisition closed. He never remotely suggested that TWC would be managing the Legacy Charter Systems in the future. Indeed, it would have been absurd for him to do so, given that he was then Charter’s lead programming negotiator, and would continue to be after the Acquisition, as the pre-Acquisition Charter senior management team prepared to take control of the entire combined entity.

44. Univision again met with Mr. Singer at an industry conference in Boston on May 17, 2016, one day before the completion of the Acquisition on May 18, 2016. Again, Mr. Singer refused to negotiate prior to the closing of the Acquisition.

45. With the expiration of the Charter Agreement now only a little more than a month away, Univision again reached out to Charter in order to expedite the renewal negotiation (having followed Mr. Singer's request to wait to engage until after the Acquisition). Univision sent emails to Mr. Singer on May 24, May 26, and June 2, 2016, each time asking to discuss the renewal. Mr. Singer rebuffed each of these inquiries.

46. Following a short and unproductive discussion between the parties in early June, Univision sent a proposal to Mr. Singer on June 10, 2016, which offered to renew the parties' contractual relationship for both the Legacy Charter Systems and the Legacy TWC Systems, and proposed various new distribution opportunities (*e.g.*, TV Everywhere distribution rights and set-top box video-on-demand content rights). Seeking to engage Charter in negotiations, Univision also requested a meeting to walk through the terms of its proposal.

47. Mr. Singer's sarcastic email reply to Univision's renewal proposal, sent the same afternoon, speaks for itself:

Setting aside the obnoxious miscategorization [sic] that 'we have been unwilling to engage,' which we will just accept as you have never had this job previously and probably do not know what you are doing . . . as you are very well aware there is no need to negotiate a new agreement for any portion of our footprint at this time but are willing to meet on Tuesday to hear why you appear to think otherwise, even given the nature of this proposal.

48. That same day, Mr. Singer also sent Univision a letter on Charter letterhead (the "June 10 Letter"), stating that—notwithstanding the MSO Acquisition provision of the Charter Agreement that is directly on point—the Legacy Charter Systems now qualify as "Systems" under the *TWC Agreement*, and purporting to elect to have the Legacy Charter Systems (as well

as the Legacy TWC Systems) “governed by the TWC Agreement.” Ex. 4. Yet again, Mr. Singer outright refused to engage in any substantive discussions with Univision.

49. On June 13, 2016, Univision responded to Mr. Singer’s June 10 Letter by explaining that the Acquisition plainly triggered the Charter Agreement’s MSO Acquisition provision (the “June 13 Letter”). Univision further explained that, given the abundantly evident control by New Charter over the Legacy Charter and Legacy TWC Systems, New Charter cannot rely on the purported acquisition terms contained in the TWC Agreement, as neither the Legacy Charter Systems nor the Legacy TWC Systems qualify as “Systems” under the TWC Agreement. Ex. 5.

50. Finally, Mr. Singer agreed to have several Univision executives travel to Stamford, Connecticut on June 14, 2016, to meet with New Charter—at Charter’s corporate headquarters. In a meeting that lasted barely twenty minutes, Mr. Singer and his team again refused to engage in substantive negotiations, and instead merely reiterated the untenable position that the TWC Agreement survived the Acquisition and governed the Legacy TWC Systems until June 2022. Moreover, Mr. Singer went even further and argued that the TWC Agreement also governed the *Legacy Charter Systems* through the purported “expiration date” in 2022 of the TWC Agreement.

51. On June 16, 2016, Mr. Singer again sent a letter (the “June 16 Letter”), which merely repeated in wholly conclusory fashion that “the terms of the TWC Agreement would govern in the event that Charter and TWC were combined into a single entity,” and summarily asserted that there was “no obligation . . . that we negotiate with [Univision] at this time.” Ex. 6.

52. On June 17, 2016, Univision responded in writing (the “June 17 Letter”), further explaining its position that the Charter Agreement governs, and that neither the Legacy Charter

Systems nor the Legacy TWC Systems qualify as “Systems” under the TWC Agreement because, as Charter itself has repeatedly stated to the public and to regulators over the last year, *all* post-Acquisition cable systems are now managed by New Charter, thus rendering the TWC Agreement inapplicable on its face. Ex. 7. Univision urged New Charter to reconsider its decision not to engage in good-faith negotiations for the distribution of Univision’s programming content. *Id.*

53. On June 24, 2016, New Charter, through Mr. Singer, replied in writing (the “June 24 Letter”), stating for the first time to Univision that the Legacy Charter Systems are “now managed” by a new and heretofore unidentified entity, “Spectrum Management Holding Company, LLC” (“Spectrum Holding”). Mr. Singer further claimed that Spectrum Holding qualifies as a “Time Warner Company.” Ex. 8. As detailed below, the statements made in the June 24 Letter regarding the management of the Legacy Charter Systems are flatly contrary to what Charter has reported to the public and to the regulatory agencies in seeking approval for the Acquisition.

54. Even as New Charter flatly refused to engage in such negotiations, Univision remained open at all times to good-faith, substantive discussions about the terms of a renewal agreement. To facilitate those negotiations, on June 30, 2016, Univision unilaterally offered a six-month extension of the Charter Agreement until December 31, 2016. Ex. 9. By offering this extension, Univision once again demonstrated its willingness to engage in negotiations with New Charter.

55. Yet Mr. Singer again made clear that Univision’s efforts to engage him in negotiations were pointless. The same day, June 30, Mr. Singer categorically rejected *any* further negotiations or extensions of the Charter Agreement, and instead simply sought to dictate

that New Charter’s “distribution of the Univision services *shall be* pursuant to the terms of the TWC Agreement.” Ex. 10 (emphasis added). This June 30 Letter from Mr. Singer (together with his June 10 Letter, June 16 Letter and June 24 Letter, the “June 2016 Letters”), make plain that New Charter will not deviate from its non-negotiable, and entirely unsupportable, position that the TWC Agreement will govern *all* Legacy Charter Systems and Legacy TWC Systems through June 2022.

56. Accordingly, there is an actual, justiciable controversy regarding the parties’ contractual rights and obligations that is ripe for judicial determination.

**V. The TWC Agreement Does Not Apply Beyond December 31, 2016 Because None Of The Systems Qualifies As “Systems” Under Its Terms**

57. New Charter’s purported “election” of the TWC Agreement fails on its face. Univision entered into the TWC Agreement on or around April 1, 2009, with an effective date of January 1, 2009. In or around October 2013, Univision and TWCE entered into a “First Amendment” to the TWC Agreement that extended the agreement until June 2022 (the “TWC 2013 Amendment”).

58. Section 4(u) of the TWC 2013 Amendment, replacing Section G.3(a) of the TWC Agreement, includes certain provisions by which TWC could “elect” carriage terms and license fees for “Subsequently Acquired Systems” acquired via an “MSO Acquisition,” but such terms are not applicable to the Acquisition at issue here. *See id.* § G.3(a)(ii)(C). This is because the “MSO Acquisition” provision of the TWC 2013 Amendment applies only to those systems that “*first become Systems*” under the TWC Agreement. *See id.* § G.3(a)(ii)(G)(D) (emphasis added).

59. The TWC Agreement imposes a two-part test for any cable system to qualify as a “System.” Specifically, Section B.1(ggg) of the TWC Agreement expressly sets forth a two-part

definition for a “System” as a cable system (i) “of which a Time Warner Company, directly or indirectly, owns at least twenty-five percent (25%) of the equity”; and (ii) “that is managed with respect to programming matters by a Time Warner Company.”

60. In turn, the TWC Agreement defines a “Time Warner Company” as TWC LLC [n/k/a TWCE], TWC, Time Warner Entertainment Company, L.P., Time Warner NY Cable LLC, Time Warner Entertainment-Advance/Newhouse Partnership, “or any other person or entity Controlled, either directly or indirectly, by” those entities. *See* TWC Agreement at § B.1(nnn).

61. Defendants have made no showing to Univision regarding the first prong of the two-part test for a “System” (*i.e.*, 25% ownership). But even if New Charter can satisfy this ownership prong, there is no basis whatsoever—other than New Charter’s say-so—for New Charter’s claim that a “Time Warner Company” actually “manages” New Charter’s cable systems “with respect to programming matters” (*i.e.*, the second prong of the two-part test).

62. New Charter’s position that a “Time Warner Company” manages the Legacy Charter Systems and Legacy TWC Systems cannot possibly be correct, for a variety of reasons. *First*, if its position was in fact correct, numerous public and regulatory filings made by Charter since 2015—as alleged extensively below—would be rendered materially false and deceptive. *See* § VI. *Second*, it collides with personnel and management actions taken by Charter following the Acquisition, all of which confirm the common-sense marketplace reality that the pre-Acquisition leadership team at Charter is the one pulling all the strings at New Charter, including with respect to programming decisions. *See* § VII. *Third*, the position fails on its face, as the legal entity that New Charter recently identified to Univision for the first time as the managing “Time Warner Company”—Spectrum Holding—is nothing more than a shell company that was

pretextually created, controlled, and managed by New Charter. *See* § VIII.

**VI. Charter Repeatedly Told Federal and State Agencies, Wall Street Investors and Shareholders, and Its Subscribers, That New Charter—Not TWC—Will Manage the Systems**

63. For the better part of the past year, in an aggressive effort to win regulatory approval for the Acquisition, Charter made numerous statements—to the SEC, the FCC, and state regulators across the country—that conveyed a consistent message: Charter and its management team would be managing all of the cable systems of the newly combined entity following the close of the Acquisition.

**A. Charter’s Statements to the SEC**

64. In connection with the Acquisition, Charter made various statements to the SEC that, under the federal securities laws, could not have included an untrue statement of material fact or omitted a material fact necessary to make the statement not misleading. *See* Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b) (the “Exchange Act”), and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5.

65. In particular, Charter told the SEC in June 2015 that “[u]nder the *leadership of Charter’s management team*, the merged company will have both the incentives and resources to advance Charter’s industry-leading pro-customer and pro-broadband model and extend it to Time Warner Cable and Bright House Networks’ customers.” Ex. 11 (Charter Commc’ns, Inc., Rule 425 Prospectus (June 29, 2015)) (emphasis added)).

66. In a subsequent filing with the SEC, Charter cautioned that one risk of the Acquisition *for Charter* would be “managing a significantly larger company than before.” Ex. 12 (Charter Commc’ns, Inc., Current Report (Form 8-K) (April 7, 2016)).

67. Pursuant to Rule 425 of the Exchange Act, Charter also filed with the SEC certain other statements that it made regarding the Acquisition, including that “*Charter’s management*

will bring the same incentives, perspectives and products to New Charter.” See Ex. 13 (“Charter-TWC-BHN Transaction Update,” available on Charter’s online “Resource Center”).

**B. Statements to the FCC**

68. Charter characterized the nature of the Acquisition to the FCC—the United States’ primary authority for communications laws and regulations, charged by Congress with the review and approval of transfers of licenses and authorizations in connection with media mergers—in no uncertain terms: “Charter seeks to extend its suite of services to millions of Americans now served by Time Warner Cable and Bright House Networks . . . .” Ex. 1 (Relevant excerpts of Public Interest Statement, FCC, MB Docket No. 15-149, at 1 (filed June 25, 2015) (the “FCC App.”).

69. Charter explained to the FCC that then-Charter CEO Tom Rutledge will be “New Charter’s President and CEO, will hold a board seat and will be offered the position of Chairman and CEO of New Charter.” *Id.* at 16.

70. Noting that New Charter will be the third-largest MVPD post-Acquisition, Charter stated that “[w]e will own and/or manage systems serving approximately 19.4 million broadband customers, 17.3 million video customers, and 9.4 million voice customers across 41 states.” *Id.* (emphasis added).

71. Charter further told the FCC exactly what it told the SEC: “***Under the leadership of Charter’s management team***, the merged company will have both the incentives and resources to double down on Charter’s existing pro-customer and pro-broadband model and extend it to Time Warner Cable and Bright House Networks’ significantly larger footprint.” *Id.* at 1-2 (emphasis added).

C. **The FCC Relied on Charter’s Depiction of the Acquisition**

72. Through these and other statements regarding its own proposed management of the newly combined entity, Charter secured the necessary approvals it sought from the FCC. For example, in its May 10, 2016, Memorandum Opinion and Order approving the Acquisition, the FCC repeated what Charter had stated: “[f]ollowing the transaction, *New Charter would own and/or manage systems* serving approximately 23.9 million customers—19.4 million broadband customers, 17.3 million video customers, and 9.4 million voice customers—across 41 states.” See Ex. 14 (Relevant excerpts of FCC 16-59 Order, MB Docket No. 15-149, ¶ 23 (May 10, 2016) (the “FCC Order”)) (emphasis added).

73. In addition, the FCC focused its “public interest inquiry” on “the question of whether the track record and outlook of *Charter’s current management* would be carried over to New Charter’s expanded footprint to the benefit of consumers.” *Id.* ¶ 6 (emphasis added).

74. And, in voicing its concerns that New Charter would take actions to inhibit competition in the online video market,<sup>3</sup> the FCC noted that while “Charter’s current management team has not implemented” such actions, “[p]ost-transaction, however, *the management team will be operating* a substantially different company with a far greater footprint and subject to significantly different incentives.” *Id.* ¶ 83 (emphasis added).

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<sup>3</sup> Notably, the DOJ, in approving the Acquisition, imposed certain conditions to ensure that New Charter not attempt to use its newly substantial size and leverage to discriminate against online video competitors or impede the online video marketplace, to which both Charter and TWC consented in order to obtain the necessary permissions to close the Acquisition. See *United States v. Charter Communications, Inc. et al.*, 1:16-cv-00759 (D.D.C.) (the “Final Judgment”). These conditions further underscore the need for a renewal agreement that omits any terms and conditions that violate the Final Judgment.

D. **Statements to State Regulatory Agencies**

75. Charter also needed to secure regulatory approval of the transfer of control to New Charter from state public service agencies, including in New York and California. To that end, it made the following unequivocal statements to the New York State Public Service Commission (the “NY Commission”):

- “***Charter*** is a financially strong, publicly traded corporation ***well positioned to effectively manage the TWC Subsidiaries*** in New York.” Ex. 2 (Joint Petition, NY Commission, Case 15-M-0388, at 20 (July 2, 2015) (“N.Y. Petition”) (emphasis added)).
- “The Transaction leaves Charter’s existing assets and customers in New York ***subject to operational decision-making by the same management team*** and essentially the same board structure—with two seats added.” *Id.* at 19 (emphasis added).
- “This intra-company transfer of the 16 franchises among Charter subsidiaries will have no impact upon the provision of service to subscribers, and the franchises ***will remain subject to operational decision-making by the same management team.***” *Id.* (emphasis added).
- “The management of New Charter, including Charter’s current operating subsidiaries, is expected to remain unchanged.” *Id.* at 13.
- “New Charter will be managed by a team of experienced officers, all of whom will be intensely focused on innovation, competition, customer service and service quality. ***Charter’s management team is considered among the best in the industry.***” *Id.* at 20 (emphasis added).

76. Repeating its assertions to the FCC, Charter told both the NY Commission and the California Public Utilities Commission (the “CA Commission”) that following the Acquisition, “***New Charter will own and/or manage*** systems serving approximately 19.4 million broadband customers, 17.3 million video customers, and 9.4 million voice customers across 41 states.” *See* Ex. 15 (Joint Application, CA Commission, Proceeding: A1507009, at 18 (July 2, 2015) (the “CA App.”)); Ex. 2 (N.Y. Petition at 13–14) (emphasis added).

77. Charter also made the following statements to the CA Commission in seeking approval of the Acquisition in California, each conveying the distinct message that Charter’s “management team” would direct the new entity:

- “***Under the leadership of Charter’s management team that currently provides service to portions of California***, New Charter will have both the incentives and resources to reinforce Charter’s existing pro-customer model ***and extend it throughout TWC’s and [Bright House’s] footprints.***” See Ex. 15 (CA App. at 3) (emphasis added).
- “New Charter will have the requisite financial, technical, and managerial qualifications to provide reliable service throughout its increased footprint, ***as Charter has done in its current service area in the State.***” *Id.* (emphasis added).
- “New Charter will be managed by a team of experienced officers, all of whom will be intensely focused on innovation, competition, customer service, and service quality . . . ***Charter’s management team is considered among the best in the industry.***” *Id.* at 28 (emphasis added).

78. Defendants also jointly told the CA Commission that the “regulated public utilities, TWCIS [Time Warner Cable Information Services] and Bright House California . . . ***will be managed by New Charter after the Transaction is approved.***” See Ex. 3 (Opening Brief, CA Commission, Proceeding: A1507009, at 62 (March 1, 2016) (emphasis added)).

79. Charter made many of these same statements to multiple other state regulatory agencies throughout the country in order to obtain state-by-state approvals for the Acquisition, including to the Public Service Commission of West Virginia, the Hawaii Department of Commerce and Consumer Affairs, and the Nebraska Public Service Commission.

#### **E. State Regulatory Authorities Relied on Charter’s Depiction of the Acquisition**

80. Charter’s statements in this regard did not fall on deaf ears. In approving the Acquisition in New York, the NY Commission expressly found, as Charter had stated, that “New Charter will own and/or manage systems serving approximately 19.4 million broadband

customers, 17.3 million video customers, and 9.4 million voice customers across 41 states.” Ex. 16 (Order Granting Petition, NY Commission, Case 15-M-0388, at 7 (Jan. 8, 2016)).

81. Similarly, in approving the Acquisition in California, the CA Commission relied in part on Defendants’ position that “all regulated public utilities *will be managed by New Charter and its management team.*” Ex. 17 (Proposed Decision, CA Commission, Proceeding: A1507009, at 37 (April 12, 2016)).

#### F. Statements to the Public, Industry Groups, and Wall Street

82. Charter made like-minded statements to its own customers and the viewing public at large. For example, in the “Charter-TWC-BHN Transaction Update,” available on Charter’s online “Resource Center,” Charter advertised that “*Charter’s management will bring the same incentives, perspectives and products to New Charter.*” See Ex. 13 (emphasis added).

83. Charter told Wall Street and potential investors the same thing: on a May 26, 2015 “M&A Call” with investors, Mr. Rutledge, formerly CEO of Charter and now CEO of New Charter, stated that Charter will “*bring Charter’s products, pricing and practices to Time Warner Cable and Bright House customers.*” See Ex. 18 (emphasis added).

84. Mr. Rutledge then publicly confirmed his plan for a seamless transition of management, to “make the Time Warner and Bright House assets *that we’re acquiring* work like Charter’s working right now . . . .” See Ex. 19 (Charter Commc’ns, Inc., Rule 425 Prospectus (Oct. 26, 2015) (emphasis added)).

85. Mr. Rutledge made numerous other statements on Charter’s quarterly earnings calls over the past year, each confirming that TWC’s management influence would be eviscerated post-Acquisition:

- “Following the closing, we will continue to take both the Time Warner Cable and Bright House footprints all-digital in order to rollout *our* Spectrum product suite, which has been fundamental to our growth and success at Charter. As we

complete all-digital and roll out Spectrum, Time Warner Cable and Bright House customers will also get access to **our** most advanced and latest hardware and applications.” See Ex. 20 (Q2 2015 Earnings Call, at 2 (Aug. 4, 2015) (emphasis added)).

- “[**O**ur plan is to move Time Warner and Bright House customers into **our** model.” See Ex. 21 (Q4 2015 Earnings Call, at 13 (February 4, 2016) (emphasis added)).
- Charter’s forecasts reflected “an indication of what **we** believe **we** can do at Time Warner Cable and Bright House. That will require time and investment just as it did at Charter, but I believe it can happen faster because of the relatively better starting condition of the assets **we’re acquiring**.” See Ex. 22 (Q1 2016 Earnings Call, at 2 (April 28, 2016) (emphasis added)).
- “**Managing** the all-digital transition at Time Warner Cable and Bright House will also be a key priority.” *Id.* at 3 (emphasis added).
- Charter will “**roll out new pricing and packaging across Time Warner and Bright House**.” *Id.* (emphasis added).

86. Additionally, in January, 2016—even before the Acquisition closed—Mr. Rutledge signed a “Memorandum of Understanding” with certain multicultural leadership organizations (the “Multicultural MOU”), in which Charter made—on behalf of itself and TWC—several commitments to diversity upon the closing of the Acquisition. Notably, one of the five “focus areas” that the Multicultural MOU centered upon was “programming.”

87. The former CEO of TWC, Robert Marcus, openly admitted the reality of the Acquisition on an October 29, 2015, earnings call, referring to “**Charter, as the acquirer,**” and deferring questions about the future management of New Charter to “[**Mr. Rutledge**] and his **team**.” See Ex. 23 at 12 (emphasis added).

88. Likewise, a Charter spokesman made clear that former TWC customers “will start seeing [Charter’s] Spectrum brand, new product enhancements and new packages.”<sup>4</sup> See Tim

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<sup>4</sup> Charter had a pre-existing Spectrum brand that it offered to consumers pre-Acquisition.

Feran, *Spectrum Name To Replace Time Warner As Cable Provider's Sale Is Complete*, The Columbus Dispatch, May 19, 2016.

89. Mr. Rutledge himself emphasized that point on the day the Acquisition closed: “. . . in the coming months [former TWC customers] will begin to hear more from us about the Spectrum brand, and the product improvements and consumer-friendly policies that come with it.” See Ex. 24 (May 18, 2016 Press Release).

90. News organizations covering the Acquisition consistently reported that New Charter would manage the company going forward. For example, the Wall Street Journal stated on March 20, 2016, that “**Charter’s management team** has shown that it can deliver.” See Miriam Gottfried, *Why Charter’s Cable Deal Sends a Strong Signal*, Wall Street Journal, Mar. 20, 2016.

91. A March 5, 2016, Milwaukee, Wisconsin Journal Sentinel article looked at the potential effects of the Acquisition on Wisconsin consumers, noting that if the deal was approved, “**Time Warner Cable customers would become Charter Communications customers**,” without changing subscription plans. See Rick Barrett, *Charter Has Big Plans For Time Warner Cable in Wisconsin*, Milwaukee-Wisconsin Journal Sentinel, Mar. 5, 2016 (emphasis added).

92. A March 22, 2016, LA Times article about TWC’s regional sports network noted that “Charter Chief Executive Tom Rutledge had pledged to try to make the Dodgers channel more widely available **should his company win approval to take over Time Warner Cable’s operations**.” See Meg James, *Time Warner Cable Lowers Price of Dodgers Channel, Hoping to End Stalemate*, L.A. Times, Mar. 22, 2016 (emphasis added).

93. A May 18, 2016, article in Variety observed that the “*post-merger Charter team* has a number of big carriage agreements to sort through on the near-term horizon.” See Cynthia Littleton, *What’s Next Now That Charter-Time Warner Cable Merger Is Complete*, Variety, May 18, 2016 (emphasis added).

94. Perhaps CNN’s Senior Media Correspondent, Brian Stelter, summed the Acquisition up best in a May 18, 2016, article headlined: “*Bye, bye Time Warner Cable. Hello Charter.*”

## **VII. The Corporate Reality Confirms Charter’s Public Statements**

95. All of the above statements are further reflected by the realities of New Charter’s management team and other personnel decisions, which leave no doubt that New Charter—and not any Time Warner Company—is managing the cable systems of the new entity. As alleged below, New Charter’s senior management is virtually identical to Charter’s senior management.

96. Starting at the top, Charter CEO Tom Rutledge is now President and CEO of New Charter.

97. New Charter’s programming group is headed by Charter’s Senior Vice President of Programming, Mr. Singer. Indeed, Mr. Singer’s own public biography confirms that he is responsible for “managing” programming content across all of the New Charter cable systems:

Allan Singer joined Charter Communications, Inc. as Senior Vice President, Programming, in April 2011. In this role, Mr. Singer leads Charter’s content acquisition team and is responsible for acquiring, developing *and managing* linear and non-linear content for the company.

See <https://newsroom.charter.com/leaders/allan-singer/> (emphasis added). Underscoring Charter’s continuing control over management, Mr. Singer sent each of his June 2016 letters to Univision on Charter’s letterhead, complete with Charter’s corporate logo.

98. With regard to senior executives, New Charter has simply continued the tenure of Charter’s executives: the senior officer positions of Chief Financial Officer, Chief Operating Officer, Secretary, Executive Vice President and Chief Marketing Officer, and Chief Accounting Officer at Charter have all remained the same. Moreover, each of the directors of Charter, with one exception, was appointed a director of New Charter.

99. On the other hand, key TWC senior officers—including, most notably, its former CEO Robert Marcus, and its former head of programming Melinda C. Witmer—departed in the immediate wake of the Acquisition. As alleged above, not a single former TWC director is represented on New Charter’s Board of Directors.

100. In addition to management changes, the former Charter leadership team has quickly taken steps that demonstrate that it is in charge of decision-making across the combined entity post-Acquisition. For instance:

- Charter’s “Spectrum” branded cable products are replacing TWC products.
- In a letter to millions of former TWC customers post-Acquisition, New Charter CEO Mr. Rutledge informed them that “soon you will get to know us by our new name, Spectrum.”
- TWC is vacating its corporate headquarters at the Time Warner Center in New York City at the end of 2016, and will “relocate to Stamford, Conn., where Charter is headquartered.” *See* Steve Cuzzo, *Charter Plans to Leave Time Warner Center*, The New York Post (June 27, 2016) (“Charter Communications, which recently bought Time Warner Cable for \$55.1 billion, not only plans to dump the company’s name — it’s dumping Manhattan, too.”).

### **VIII. Spectrum Holding Is Nothing Other Than A Charter Vehicle**

101. New Charter rests its “management” argument on the existence of a previously unidentified entity—allegedly a “Time Warner Company”—named “Spectrum Management Holding Company, LLC.”

102. New Charter’s fig-leaf position that Spectrum Holding manages the Legacy Charter Systems—and its insistence that this newly created Charter subsidiary is a “Time Warner Company” under the TWC Agreement—is unsupportable.

103. Spectrum Holding—f/k/a Nina Company II, LLC—is nothing other than an intermediary shell actually controlled and managed by New Charter, as revealed by the Amended and Restated Limited Liability Company Agreement, dated as of May 20, 2016, and filed with the SEC on May 24, 2016 (the “Spectrum Holding Agreement”). *See* Ex. 25.

104. As stated in the Spectrum Holding Agreement, the sole member of Spectrum Holding is Charter Holding. *Id.*

105. As the sole member, Charter Holding has designated New Charter to be the Manager of Spectrum Holding. Charter Holding also designated numerous Charter officers, who are now New Charter officers, to be Spectrum Holding officers. *Id.*

106. For the avoidance of any doubt, the Spectrum Holding Agreement was signed by Daniel J. Bollinger—the Vice President, Associate General Counsel, and Assistant Corporate Secretary of New Charter, Charter Holding, and Spectrum Holding. *Id.* (Tellingly, even the term “Spectrum” is a reference to *Charter’s* pre-Acquisition product branding.)

107. In sum, as the corporate documents demonstrate, Spectrum Holding is merely a newly-created shell company that is controlled and managed by New Charter and its officers, rather than by the ghost of TWC.

**FIRST CAUSE OF ACTION**  
**(Declaratory Judgment)**

108. Univision repeats and realleges the allegations in paragraphs 1 through 107 above as if fully set forth herein.

109. There is an actual and justiciable controversy between Univision, on the one hand, and Defendants, on the other, as to whether the Charter Agreement or the TWC Agreement governs the carriage of Univision programming on Legacy Charter Systems and Legacy TWC Systems following June 30, 2016.

110. Univision believes that the Charter Agreement governed the Legacy Charter Systems until its expiration on June 30, 2016, as well as the Legacy TWC Systems pursuant to its MSO Acquisition provision. By operation of the MSO Acquisition provision of the Charter Agreement, the TWC Agreement shall continue to govern the Legacy TWC Systems until the end of calendar year 2016, at which time it will “cease to be of any further force or effect.”

111. New Charter has stated unequivocally, including in the June 30 Letter, that the TWC Agreement applies to the Legacy Charter Systems and the Legacy TWC Systems following June 30, 2016, and will continue to apply through June 30, 2022.

112. To resolve this justiciable controversy, Univision seeks a declaration pursuant to CPLR § 3001 that (i) the Charter Agreement governed the Legacy Charter Systems until its expiration on June 30, 2016; (ii) the license fees provided in the TWC Agreement apply to only the Legacy TWC Systems and only through December 31, 2016, pursuant to the MSO Acquisition provision of the Charter Agreement; and (iii) the TWC Agreement will terminate as of December 31, 2016, pursuant to the MSO Acquisition provision of the Charter Agreement. Univision seeks a further declaration pursuant to CPLR § 3001 that New Charter is not a Time Warner Company, as defined in the TWC Agreement, and it manages the Legacy Charter Systems and Legacy TWC Systems.

**SECOND CAUSE OF ACTION**  
**(Breach of the Charter Agreement)**

113. Univision repeats and realleges the allegations in paragraphs 1 through 112 above as if fully set forth herein.

114. Univision and Charter were in a contractual relationship under the Charter Agreement. Univision has satisfied its obligations pursuant to the terms of the Charter Agreement.

115. By their words and actions in June 2016, including through the June 2016 Letters and a purported “election”—conveyed unilaterally and unequivocally in the June 30 Letter—to have the terms of the TWC Agreement control the Legacy Charter Systems following June 30, 2016, Defendants Charter and/or New Charter have breached the Charter Agreement.

116. Defendants Charter and/or New Charter have refused to negotiate any renewal terms, including new license fees, upon the expiration of the Charter Agreement. They also have refused to acknowledge that the TWC license fees apply, via the MSO Acquisition provision of the Charter Agreement, to only the Legacy TWC Systems and only through the end of calendar year 2016. As New Charter stated in its June 30 Letter, “there is no need for us to engage with you concerning distribution of Univision,” and “there is no need for any extension of any agreement.”

117. Univision has suffered damages resulting from this breach because, instead of having the opportunity to fairly negotiate license fees and other key terms for both the Legacy Charter Systems and the Legacy Time Warner Systems, New Charter is improperly attempting to apply the TWC Agreement, with below current market license fees and other out-of-date terms, to all of its cable systems rather than Univision’s currently prevailing market license fees and other key terms, which Univision could obtain in a good-faith renewal negotiation.

118. The difference in these license fees constitutes damages to Univision, the exact amount of which will be determined at trial.

**THIRD CAUSE OF ACTION**  
**(Breach of the Covenant of Good Faith and Fair Dealing)**

119. Univision repeats and realleges the allegations in paragraphs 1 through 118 above as if fully set forth herein.

120. The relevant agreements, the relationship between the parties, and common law imply a covenant of good faith and fair dealing between Univision and Defendants.

121. For over a year, Charter has stated on numerous occasions in numerous settings that New Charter would “manage” both the Legacy Charter Systems and the Legacy TWC Systems following the close of the Acquisition.

122. New Charter’s repeated statements and express intentions demonstrate that following the close of the Acquisition, the Charter Agreement, and not the TWC Agreement, governs all of the cable systems.

123. Charter’s public statements, and New Charter’s evident management of the new company, conflict with the statements that Charter and/or New Charter have made to Univision in the June 2016 Letters.

124. New Charter and/or Charter have breached their duties of good faith to Univision by fundamentally mischaracterizing the nature of the Acquisition, including by representing that Spectrum Holding is a “Time Warner Company” “managing” the various cable systems, when the corporate reality is to the contrary. New Charter manages and controls the various cable systems. These Defendants also continue to breach their duty of good faith by pressing positions designed to deprive Univision of the fundamental benefits of its contracts. Defendants have taken the position that they have the right to Univision’s programming until June 2022. They do

not: the *only* rights that Defendants have to Univision's programming is pursuant to the Charter Agreement. Rather than act in a good-faith manner to abide by their contractual obligations, Defendants have employed various corporate machinations in furtherance of their scheme to maximize their profits at the expense of their contractual obligations.

125. Defendants have in fact designed the Acquisition in such a manner as to deliberately and willfully destroy or injure Univision's right to receive the fruits of the Charter Agreement.

126. Defendants have thus breached the implied covenant of good faith and fair dealing, resulting in damages to Univision, the exact amount of which will be determined at trial.

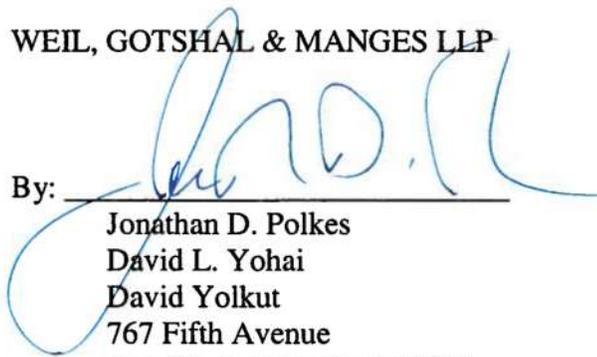
#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully pray for relief as follows:

1. For a determination and order declaring that: (i) the Charter Agreement governed the Legacy Charter Systems until its expiration on June 30, 2016; (ii) the license fees provided in the TWC Agreement apply to only the Legacy TWC Systems and only through December 31, 2016, pursuant to the MSO Acquisition provision of the Charter Agreement; (iii) the TWC Agreement will terminate as of December 31, 2016, pursuant to the MSO Acquisition provision of the Charter Agreement; and (iv) New Charter is not a Time Warner Company, as defined in the TWC Agreement, and it manages both the Legacy Charter Systems and the Legacy TWC Systems.
2. For damages for breach of the Charter Agreement and for breach of the covenant of good faith and fair dealing, the exact amount of which to be determined at trial.
3. For such additional and further relief as the Court may deem just and proper.

Dated: New York, New York  
July 8, 2016

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