Neil Smit
President & CEO

August 8, 2008

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2328 Rayburn House Office Building
Washington, D.C. 20515-2215

The Honorable Joe Barton
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
2109 Rayburn House Office Building
Washington, D.C. 20515-4306

The Honorable Edward J. Markey
Chairman
Subcommittee on Telecommunications
and the Internet
U.S. House of Representatives
2108 Rayburn House Office Building
Washington, D.C. 20515-2107

The Honorable Cliff Stearns
Ranking Member
Subcommittee on Telecommunications
and the Internet
U.S. House of Representatives
2370 Rayburn House Office Building
Washington, D.C. 20515-0906

Gentlemen:

I am responding to your August 1, 2008 letter that asks a series of questions with respect to what the letter describes as "the growing trend of companies' tailoring advertising based upon consumers' Internet search, surfing and others use."

As you know, we previously met with you Chairman Markey and Ranking Member Barton, as well as staff from all of your offices, in response to questions about our plans to test NebuAd's enhanced advertising in four markets.. These meetings were a follow-on to notices to our customers about planned pilot trials. As we previously advised your staff, we are not moving forward with the pilots at this time. Nevertheless, I have set forth below answers to your questions to assist in your information collection about services like NebuAd.

I can assure you that Charter recognizes its obligation to protect subscriber privacy and makes every effort to ensure that its practices comply with applicable law. We look forward to continuing to work with you and the Committee on this important matter.

1. Has your company at any time tailored, or facilitated the tailoring of, Internet advertising based on consumers' Internet search, surfing, or other use?

We had planned to initiate a limited pilot with NebuAd this past July, after focus groups had responded favorably to having Web advertising be more tailored to their interests. We did not move forward with the pilots, however.

2. Please describe the nature and extent of any such practice and if such practice had any limitations with respect to health, financial, or other sensitive personal data, and how such limitations were developed and implemented.

As designed, the NebuAd system had many such limitations and protections built in. The system included contractual and technical measures to avoid any tracking or serving of ads based on Internet visits related to medical information, racial or ethnic origins, religious beliefs, adult content, or content of a sexual nature. The system did not collect email addresses, IP addresses, names, street addresses, phone numbers, social security numbers, financial information, credit card numbers, login IDs, passwords, bank account numbers or any secure (https) Internet visits. No specific online activity data—such as browsing records—was stored or retained. The entire system was designed not to use, track or store personally identifiable information. The systems only aggregated anonymous users into broad interest categories (like "auto shopper") and then send relevant ads to those categories of users when they click on an affiliated web site. Charter also provided advance notice to our customers, offered customers easy-to-use opt-out mechanisms as recommended by the FTC, and specially trained our care agents to answer customer questions about the system.

In addition to the foregoing, Charter's High-Speed® Internet service does employ technology, similar to that included in many toolbar or search applications such a Google, to respond to subscribers who mistype or otherwise enter an invalid web address. This technology directs the subscriber to an "error" message page which suggests potential links that the user may have been looking for and also provides some links to sponsored advertisements. The sponsored advertisements are not based on any customer specific information, but are based on assumptions about what the subscriber might have been looking for when the URL was mistyped. The technology does not collect or rely upon any other data.

In addition, we operate our own website, which includes advertising and web search functionality. But we rely on third-parties such as Google and Yahoo to perform these functions, as do other websites. We understand that Google and Yahoo will be providing you with information on those advertising networks and their practices.

3. In what communities, if any, has your company engaged in such practice, how were those communities chosen, and during what time periods was such practice used in each? If such practice was effectively implemented nationwide, please say so.

We have not launched the pilot.

4. How many consumers have been subject to such practice in each affected community, or nationwide?

None.

5. Has your company conducted a legal analysis of the applicability of consumer privacy laws to such practice? If so, please explain what that analysis concluded.

The pilot was designed to meet all applicable legal standards. However, the pilot was never launched.

6. How did your company notify consumers of such practice? Please provide a copy of the notification. If your company did not specifically or directly notify affected consumers, please explain why this was not done.

We notified our customers in the pilot markets in writing by mail, amended our privacy policy, posted answers to frequently asked questions related to the service on our Web page, Charter.com, briefed the trade and general press about the pilot, and provided customers with easy-to-use opt-out mechanisms as recommended by the FTC. We have attached the written notice and a reproduction of the opt-out website.

7. Please explain whether your company asked consumers to "opt in" to the use of such practice or allowed consumers who objected to "opt out." If your company allowed consumers who objected to opt out, how did it notify consumers of their opportunity to opt out? If your company did not specifically or directly notify affected consumers of the opportunity to opt out, please explain why this was not done.

See number 6 above.

8. How many consumers opted out of being subject to such practice?

4932, or 1.6% of notified customers, opted out of the pilot.

9. Did your company conduct a legal analysis of the adequacy of any opt-out notice and mechanism employed to allow consumers to effectuate this choice? If so, please explain what that analysis concluded.

See number 5 above.

10. What is the status of consumer data collected as a result of such practice? Has it been destroyed or is it routinely destroyed?

The pilots were not launched, and no data was collected.

11. Is it possible for your company to correlate data regarding consumer Internet use across a variety of services or applications you offer to tailor Internet advertising? Do you do so? If not, please indicate what steps you take to make sure such correlation does not happen. If you do engage in such correlation, please provide answers to all the preceding questions with reference to such correlation. If your previous answers already do so, it is sufficient to simply cross-reference those answers.

We do not correlate data in this way and have taken no steps to do so.

I hope that these responses are helpful to the Committee.

Sincerely,

Neil Smit
President & Chief Executive Officer