

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

IN RE:)	
)	
CHARTER COMMUNICATIONS, INC.)	
Subpoena Enforcement Matter)	
_____)	
)	
RECORDING INDUSTRY)	Miscellaneous Action
ASSOCIATION OF AMERICA)	Case No. 4:03MC00273CEJ
1330 Connecticut Avenue, N.W., Ste. 300)	
Washington, D.C. 20001)	
)	
v.)	
)	
CHARTER COMMUNICATIONS, INC.)	
12405 Powerscourt Drive, Suite 100)	
St. Louis, MO 63131)	
_____)	

**CHARTER COMMUNICATIONS’ RESPONSE TO
RIAA’S REQUEST FOR ORAL ARGUMENT REGARDING
CHARTER’S MOTION TO QUASH SUBPOENA
AND MOTION FOR PROTECTIVE ORDER**

Charter Communications, Inc. (“Charter”) files this short Response to concur in the request by the Recording Industry Association of America (“RIAA”) for oral argument on Charter’s pending Motion To Quash and Motion for Protective Order. These motions request a ruling from this Court on issues of first impression to this Court – indeed, to any court.

In particular, Charter requests a ruling from this Court regarding the effect of the subpoena provision in Digital Millennium Copyright Act, 17 U.S.C. § 512 (“DMCA”), on important privacy rights afforded to cable subscribers under the Cable Communications Act, 47 U.S.C. § 551, which precludes cable operators from disclosing “personally identifying

information” except in response to a court order, and then only after the subscriber has had an “opportunity to appear and contest” the order. 47 U.S.C. §§ 551(c), 551(h).

Charter also seeks a ruling from this Court regarding a copyright holder’s obligations in issuing a subpoena under the DMCA to adhere to the provisions of Federal Rule of Civil Procedure 45, which prohibit imposing an undue burden on the respondent in terms of substantial cost and an unreasonably short compliance deadline. Fed. R. Civ. P. 45(c).

Charter agrees with the RIAA that oral argument will assist the Court in resolving these issues as well as any other issues that have been raised by the parties in this proceeding.

Dated: October 20, 2003

Respectfully submitted,

THOMPSON COBURN LLP

By: _____/s/

Stephen B. Higgins

E.D. Mo. Bar No. 10499

Mark Sableman

E.D. Mo. Bar No. 4244

One US Bank Plaza

St. Louis, Missouri 63101-1611

Tel.: 314-552-6000

Fax: 314-552-7000

McKOOL SMITH P.C.

Jeffrey R. Bragalone

Texas State Bar No. 02855775

Matthew P. Harper

Texas State Bar No. 24037777

300 Crescent Court, Suite 1500

Dallas, Texas 75201

Tel.: 214-978-4000

Fax: 214-978-4044

Amber H. Rovner
Texas State Bar No. 09223750
300 W. 6th Street, Suite 1700
Austin, Texas 78701
Tel.: 214-692-8700
Fax: 512-692-8744

**COUNSEL FOR CHARTER
COMMUNICATIONS, INC.**

VERIFICATION OF SIGNED ORIGINAL DOCUMENT

Pursuant to Local Rule 11-2.11, counsel for Respondent Charter Communications, Inc. hereby attests to the existence of a paper copy of the foregoing document bearing the original signature of Stephen B. Higgins. The document was filed electronically on October 20, 2003 with a blank signature line. Counsel will retain the paper copy bearing the original signature during the pendency of this matter, including all possible appeals.

/s/
Stephen B. Higgins
E.D. Mo. Bar No. 10499
THOMPSON & COBURN
One US Bank Plaza
St. Louis, Missouri 63101-1611
Tel.: 314-552-6000
Fax: 314-552-7000

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served on this the 20th day of October 2003, in the manner and upon the persons indicated below.

By operation of the Court's electronic filing system upon the following:

K. Lee Marshall, Esq.
Bryan Cave, LLP
One Metropolitan Square
211 North Broadway, Suite 3600
St. Louis, MO 63102-2750

Mailed by Federal Express to the following non-participants in Electronic Case Filing:

Yvette Molinaro, Esq.
Patricia H. Benson, Esq.
Mitchell Silberberg & Knupp LLP
Trident Center
11977 West Olympic Blvd.
Los Angeles, CA 90064-1883

Thomas J. Perrelli, Esq.
Steven B. Fabrizio, Esq.
Jenner & Block, LLC
601 Thirteenth Street, N.W.
Suite 1200 South
Washington, DC 20005-3823

/s/
Stephen B. Higgins