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December 3, 2007

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Martin:

I write to address an apparent breakdown in an open and transparent regulatory process at the Federal Communications Commission (FCC). This problem is not confined to matters that surfaced at the Commission's most recent open meeting held on November 27, although that episode clearly illustrates my concerns. This letter poses an initial set of questions, which will be pursued by the Subcommittee on Oversight and Investigations, for further inquiry into Commission procedures to ensure that the Commission processes are fair, open, and transparent, and that they serve the public interest.

I have the good fortune of having conducted oversight of Federal agencies for some time. This experience informs my opinion that an independent agency that conducts its affairs fairly, openly, and transparently is more likely to serve the public interest than one that does not. When the process breaks down, as it appears to have at the FCC, reasoned analysis and debate suffer, and public confidence in the agency is shaken.

Given several events and proceedings over the past year, I am rapidly losing confidence that the Commission has been conducting its affairs in an appropriate manner. While this is certainly not true for every Commission proceeding, a trend appears to be emerging of short-circuiting procedural norms, suggesting a larger breakdown at the agency. For instance, the Commission does not put the text of proposed rules out for notice and comment; there is little public notice of certain proposed Commission actions; and Commissioners are often not informed of the details of draft items until it is too late to provide the necessary scrutiny and analysis that is so important to reasoned decision-making. Most recently, your colleagues alleged that relevant data was withheld from

public view in order to influence a vote in your favor. Taken as a whole, these events lead to larger concerns as to the inclination and ability of the Commission to perform its core mission: the implementation of Federal law to serve the public interest.

In an effort to begin the investigation, please respond to the following questions by no later than Monday, December 10, 2007:

1. Will you commit to publishing the text of proposed rules sufficiently in advance of Commission meetings for both (i) the public to have a meaningful opportunity to comment and (ii) the Commissioners to have a meaningful opportunity to review such comments? If so, how?

2. Will you commit to providing your fellow Commissioners with all of the relevant data and analysis upon which a proposed order or rule is based? If so, how?

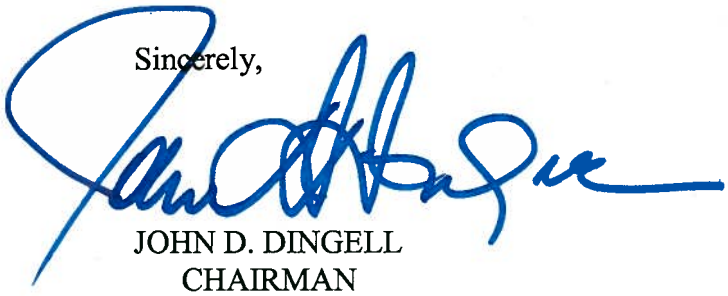
3. Will you commit to giving your fellow Commissioners adequate time to review proposed orders and rules? If so, how?

4. Will you commit to providing your fellow Commissioners and the public with adequate notice of Commission meetings? If so, how?

5. Please describe the Commission's document retention policies, including policies relating to the retention of internal or external Commission correspondence, including e-mail. If these policies have changed since you became Chairman, please describe those changes, the date the changes were instituted, any staff education and oversight activities related to the changes, and the rationale behind the changes. Please also describe any changes you are contemplating to the Commission's policies regarding document retention.

I look forward to your responses to these questions. Should you have any questions, please contact me or have your staff contact John Sopko or Amy Levine with the Committee staff at (202) 225-2927.

Sincerely,



JOHN D. DINGELL
CHAIRMAN

cc: The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce

The Honorable Bart Stupak, Chairman
Subcommittee on Oversight and Investigations

The Honorable Ed Whitfield, Ranking Member
Subcommittee on Oversight and Investigations

The Honorable Edward J. Markey, Chairman
Subcommittee on Telecommunications and the Internet

The Honorable Fred Upton, Ranking Member
Subcommittee on Telecommunications and the Internet

The Honorable Michael J. Copps, Commissioner
Federal Communications Commission

The Honorable Jonathan S. Adelstein, Commissioner
Federal Communications Commission

The Honorable Deborah Taylor Tate, Commissioner
Federal Communications Commission

The Honorable Robert M. McDowell, Commissioner
Federal Communications Commission