

Congress of the United States
House of Representatives
Washington, D.C. 20515

January 31, 2007

The Honorable Kevin J. Martin, Chairman
The Honorable Michael J. Copps, Commissioner
The Honorable Jonathan S. Adelstein, Commissioner
The Honorable Deborah Taylor Tate, Commissioner
The Honorable Robert M. McDowell, Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

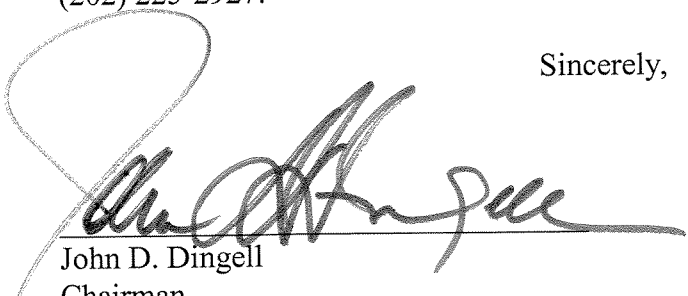
Dear Mr. Chairman and Commissioners:

We are writing to request your assistance in preparation for the Subcommittee on Telecommunications and the Internet oversight hearing on the Federal Communications Commission scheduled for Thursday, February 15, 2007.

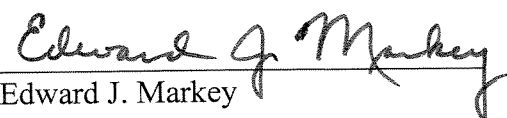
The Subcommittee's inquiry into the functioning and procedures of the Commission and the views of Commissioners on matters of policy and process would benefit greatly if each of you would respond to the enclosed pre-hearing questions by no later than 5:00 p.m. on Wednesday, February 7, 2007.

Thank you in advance for your time and attention to this request. If you have any questions, please contact us or have your staff contact Johanna Shelton of the Committee staff at (202) 225-2927.

Sincerely,



John D. Dingell
Chairman
Committee on Energy and Commerce



Edward J. Markey
Chairman
Subcommittee on Telecommunications
and the Internet
Committee on Energy and Commerce

Attachment

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

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

**Attachment to Letter dated January 31, 2007 from
Reps. Dingell and Markey to Federal Communications Commission (FCC)
Chairman and Commissioners**

Questions for Chairman Kevin J. Martin

1. On May 22, 2006, you wrote to then-Subcommittee Ranking Member Markey that the Commission was “unable to investigate” allegations that telecommunications carriers were disclosing personal phone records of consumers to the National Security Agency (NSA) in apparent contravention of Section 222 of the Communications Act and other laws. Your response noted “the classified nature” of NSA activities and the “statutory privilege” of the National Security Act, and referenced a pending motion to dismiss a case before the U.S. District Court for the Northern District of California.
 - A. Does the Commission possess personnel with sufficient security clearances to work with classified material? Has the Commission dealt with classified information and classified activities in the past?
 - B. Is it your belief that the National Security Act governs the ability of the FCC to commence an investigation into an alleged violation of the Communications Act by a telecommunications carrier, regardless of whether privileges may later affect the ability of the Commission to complete such investigation?
 - C. Given that the Commission relied in part on a motion to dismiss the case that subsequently was rejected by the court, does the Commission now plan on opening an investigation into whether telecommunications carriers disclosed phone records to the NSA in violation of the Communications Act?

Questions for Chairman Martin and Commissioner Tate

1. In your Joint Statement accompanying the Commission's News Release announcing approval of the AT&T-BellSouth merger, you stated as follows: "[t]here are certain conditions, however, that are not self-effectuating or cannot be accomplished by AT&T alone. To the extent Commission action is required to effectuate these conditions as a policy going forward, we specifically do not support those aspects of the conditions and will oppose such policies going forward."
 - A. When you stated that you "do not support" some of the merger conditions, did you mean that you voted against those conditions? If so, which condition or conditions did you not support or vote against?
 - B. If both of you did not support the same subset of merger conditions as implied in your Joint Statement, how is it that the AT&T-BellSouth merger is legally deemed approved?
 - C. What is your authority to vote to approve an order and then refuse to implement it? Please identify and describe the provisions of the Communications Act, sections of the FCC's rules and other legal authority, if any, supporting your answer.
 - D. You further stipulate in your Joint Statement that "a minority of Commissioners cannot alter Commission precedent or bind future Commission decisions, policies, actions, or rules." What is the "minority of Commissioners" to which you referred? On what basis did you determine that a "minority" existed for purposes of interpreting precedent or any future agency action?

Questions for All Federal Communications Commission Members

1. *Broadband Policy*

- A. What is your assessment of broadband deployment, access, and affordability in the United States? What steps would you support the Commission taking to make broadband services (a) more accessible; (b) more affordable and (c) more robust? Are there other actions you would recommend be taken to promote further broadband deployment?
- B. What is your assessment of the definitions and methodology the Commission uses to gauge broadband deployment, access, and affordability in the United States? Are there other actions you would recommend be taken to improve such definitions or methodologies?

2. *Wireless and Spectrum Policy*

- A. Do you believe the commercial mobile service market is more or less competitive than it was five years ago? Do you believe that consumers in the commercial mobile service market would benefit from additional competitors?
- B. What actions, if any, do you believe the Commission should take, consistent with the Communications Act, to avoid “excessive concentration of licenses” and to disseminate licenses “among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women”?
- C. What actions, if any, do you believe the Commission should take with regard to spectrum management?

3. *Digital Television Transition*

- A. What general steps can the Commission take to enhance the level of preparedness of our nation for the upcoming digital television transition (DTV) in February of 2009?
- B. What specific actions do you support the Commission taking with respect to the broadcasting, cable, programming content, manufacturing, or retail sector to enhance consumer education about the DTV transition?

4. *Overall Commission Policies*

- A. In each of the major areas of the Commission’s authority (e.g., wireline, wireless, universal service, broadcast radio and television, cable services, satellite, public safety, international), what actions, if any, do you believe the Commission should take?

5. *Commission Process and Functioning*

- A. What steps, if any, can the Commission take to enhance the depth and accuracy of its collection of data and analysis of affected industries?
- B. What steps, if any, can the Commission take to better prevent waste, fraud, or abuse in programs it administers?
- C. What steps, if any, can the Commission take to enhance communications with the public in rulemakings and adjudication proceedings before the Commission?