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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives
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Washington, DC 20515-6115

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October 24, 2008

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AND CHIEF COUNSEL

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

Re: *In the Matter of Unlicensed Operations in the TV Broadcast Bands*, ET Docket 04-168.

Dear Chairman Martin:

I write concerning the Federal Communications Commission's (FCC) consideration of the appropriate use of the so-called "television white spaces." I ask that this letter be made part of the public record in the above-referenced proceeding.

I am well aware that the development of appropriate rules for this spectrum could facilitate the deployment of wireless broadband devices across the country. This is especially true in rural areas, where there tend to be fewer over-the-air television stations. Facilitating the delivery of more and better broadband services to all Americans is of utmost importance to me, and it should be a top priority of the Commission. It is equally important to me, as it should also be to the Commission, that free, over-the-air television signals be adequately protected from harmful interference.

While neither I nor my staff have seen the Commission's draft order, press reports and Commission staff indicate that the draft order permits the deployment of unlicensed devices in the television white spaces when used in conjunction with a geo-location database. I understand that the draft order also authorizes the deployment of sensing-only devices only after further testing and in limited circumstances. I am pleased that the Commission appears to be taking a careful approach to the technical issues surrounding the use of sensing-only devices.

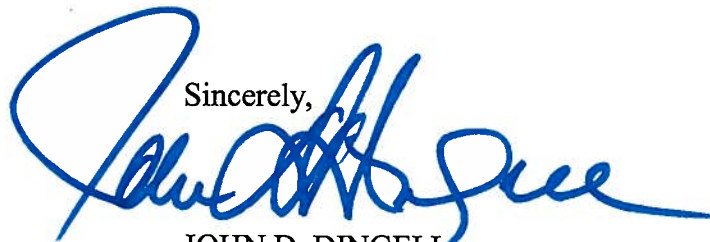
I wrote in August 2008 to suggest that the Commission consider licensing some of this spectrum. The primary issue motivating my letter then, and a primary issue here, is one of accountability. It is vital that the Commission be able to identify devices that are causing

The Honorable Kevin J. Martin
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interference and to rapidly and appropriately remedy harms to consumers. While I understand that unlicensed devices have worked in other bands and have helped drive technological innovation, the public interest requires a more detailed and careful analysis when permitting unlicensed devices to operate in the broadcast television band.

To that end, I would appreciate written answers to the questions attached by Friday, October 31, 2008. Should you have any questions or need additional information, please contact Amy Levine or Tim Powderly with the Committee staff at (202) 226-2424.

Sincerely,



JOHN D. DINGELL
CHAIRMAN

Attachment

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

The Honorable Edward J. Markey
Committee on Energy and Commerce

The Honorable Cliff Stearns
Committee on Energy and Commerce

The Honorable Jonathan Adelstein
Commissioner, Federal Communications Commission

The Honorable Michael J. Copps
Commissioner, Federal Communications Commission

The Honorable Robert M. McDowell
Commissioner, Federal Communications Commission

The Honorable Deborah Taylor Tate
Commissioner, Federal Communications Commission

PEER REVIEW

- The Commission's Web site acknowledges that Office of Management and Budget regulations mandate that reports containing "influential scientific information" be peer reviewed prior to release to the public.¹ Did you subject the October 15, 2008, report entitled, *Evaluation of the Performance of Prototype TV-Band White Space Devices Phase II*, to a peer-review process? If so, when was the peer review conducted, and by whom? Did the peer-review process result in any changes to the report? If so, please identify those changes.
- If you do not believe that the regulations require a peer review for the October 15, 2008, report, why then did the Commission subject the July 31, 2007, report entitled, *Evaluation of the Performance of Prototype TV-Band White Space Devices*, to a peer-review process?
- If you believe that a peer-review process was not required as a matter of regulation in this case, do you agree that the public interest would be served by ensuring that the scientific data underlying this important Commission decision be as sound as possible?

ACCOUNTABILITY

- One argument in support of permitting unlicensed devices in the television white spaces is that the Commission is prepared to remedy interference problems because the Commission does so in connection with other unlicensed wireless devices. Please explain the Commission's current process for addressing reports of harmful interference in other contexts, such as those addressing "pirate radio" and cell phone jamming equipment, as well as power-level boosters.
- How would the Commission address reports of harmful interference to free, over-the-air television signals caused by white spaces devices? If a consumer reports interference, how will the Commission identify the interfering device? If white spaces devices are sold to consumers, and then interference concerns arise, how will the Commission remove these devices from the market?
- Proponents of allowing devices to operate in the television white spaces also suggest that the Commission has experience addressing interference caused by devices that have been modified by a consumer. If a consumer modifies a wireless device (such as a wireless modem or a cell phone) in a way that makes the device non-compliant with its Commission certification or Commission regulations, and that device causes interference to other licensed users, what does the Commission do to remedy the situation?

¹ See <http://www.fcc.gov/omd/dataquality/peer-agenda.html>.

ACCOUNTABILITY (continued)

- In what other spectrum bands do devices rely upon spectrum-sensing technologies to avoid interference? How does the Commission address issues of interference that arise in those bands?
- Why did the Commission decline to adopt a licensed approach to some or all of this spectrum? Does the Commission not believe that a licensed approach could help alleviate some of the accountability concerns expressed above?