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CHAIRMAN EMERITUS  
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ENERGY AND COMMERCE  
CO-CHAIR  
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CONSERVATION COMMISSION

Congress of the United States  
House of Representatives  
Washington, DC 20515-2215

August 16, 2011

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The Honorable Julius Genachowski  
Chairman  
U.S. Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20054

Dear Chairman Genachowski:

Thank you for your belated response to my June 17, 2011, letter concerning the effects of voluntary incentive auctions of frequencies currently allocated to the broadcast television service. Your refusal to respond substantively to my questions is deeply troubling from a number of perspectives.

First, your failure to provide me with a detailed response to my inquiry leaves me no choice but to rely upon the analyses performed by private parties as Congress considers whether to grant your agency the authority you seek. On July 25, 2011, a Commission spokesman was quoted as accusing the National Association of Broadcasters (NAB) of engaging in "scare tactics" when that association released its analysis of the effect of the Commission's proposals on over-the-air television. Providing a substantive response to my June 17<sup>th</sup> letter would have given the Commission an excellent opportunity to prove the NAB was incorrect. Your refusal to do so leaves me no alternative but to conclude that the NAB's analysis is probably more correct than not.

Even more troubling is your insistence that the Commission be granted statutory authority to conduct voluntary incentive auctions prior to the public release of the effects of the Allotment Optimization Model (AOM) it will use in reclaiming broadcast frequencies. By keeping this information from Congress – which, as I have so often reminded you, is the sole progenitor of your agency's authorities – you force me to conclude that you in fact are concealing from Congress the true nature and consequences of future agency actions. With this in mind, I will oppose granting the Commission any statutory authority to conduct such auctions that does not include explicit and fair protections for broadcasters.

Congress established your agency in part to provide its elected members with expert advice in the area of telecommunications policy. I have a responsibility to my constituents to understand the impact my policy decisions will have on them. Your unwillingness to respond substantively to my most recent letter constitutes by extension a grave disservice to them. I have read with great interest that several of my colleagues

The Honorable Julius Genachowski

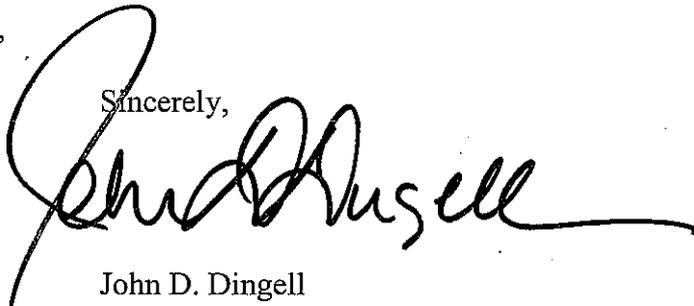
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have had difficulty securing responses to their inquiries from the Commission, something which I also experienced nearly a year ago with a letter I sent you concerning the reclassification of broadband Internet access services. One wonders if perhaps Members of Congress would have an easier time getting information from the Commission by filing Freedom of Information Act requests.

Thank you for your kind attention to my concerns. Should you have questions about this or other matters, please contact me directly or have a member of your staff contact Andrew Woelfling in my office at 202-225-4071.

With every good wish,

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Dingell", with a long horizontal flourish extending to the right.

John D. Dingell  
Member of Congress

cc: The Honorable Fred Upton, Chairman  
Committee on Energy and Commerce

The Honorable Henry Waxman, Ranking Member  
Committee on Energy and Commerce

The Honorable Greg Walden, Chairman  
Committee on Energy and Commerce  
Subcommittee on Communications and Technology

The Honorable Anna Eshoo, Ranking Member  
Committee on Energy and Commerce  
Subcommittee on Communications and Technology

The Honorable Michael Copps, Commissioner  
U.S. Federal Communications Commission

The Honorable Robert McDowell, Commissioner  
U.S. Federal Communications Commission

The Honorable Mignon Clyburn, Commissioner  
U.S. Federal Communications Commission