

FRED UPTON, MICHIGAN  
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA  
RANKING MEMBER

ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

June 3, 2011

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
Room: 8-B201  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Dear Chairman Genachowski:

Thank you for appearing before the House Subcommittee on Communications and Technology on May 13, 2011, for our hearing entitled "FCC Process Reform."

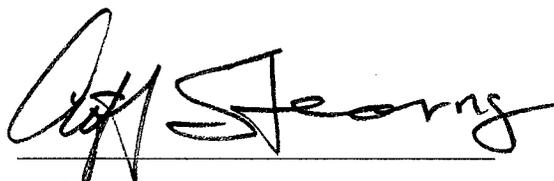
We asked you a number of questions at the hearing. To facilitate your response, as well as to pursue some additional lines of inquiry, we have attached to this letter a series of questions. We respectfully request that you provide a written response no later than close of business Monday, June 20, 2011.

If you have any questions, please don't hesitate to contact Mr. Neil Fried or Ms. Stacy Cline at (202) 225-2927.

Sincerely,



Greg Walden  
Chairman  
Subcommittee on Communications  
and Technology



Cliff Stearns  
Chairman  
Subcommittee on Oversight  
and Investigations

cc: The Honorable Henry A. Waxman, Ranking Member

Letter to the Honorable Julius Genachowski  
Page 2

The Honorable Anna G. Eshoo, Ranking Member  
Subcommittee on Communications and Technology

The Honorable Diana DeGette, Ranking Member  
Subcommittee on Oversight and Investigations

Commissioner Michael J. Copps  
Commissioner Robert M. McDowell  
Commissioner Mignon Clyburn

Attachment

## Attachment

There is growing consensus that Federal Communications Commission processes need reforming. Under both Democrat and Republican chairmen, the FCC has fallen into practices that weaken decision-making and jeopardize public confidence. For example, even though the next broadcast license renewal cycle begins this month, the FCC has not taken action on hundreds of license renewals from last year, due to a backlog of complaints.<sup>1</sup> The review of high-profile mergers often goes beyond the 180 day review period, with an average review time for major transactions of 321 days.<sup>2</sup> And the Commission has more than 3,000 open dockets, many of which lay dormant.<sup>3</sup> Although you and your predecessors have taken steps to improve process, the time may have come to do so statutorily to ensure consistency from issue to issue, and commission to commission.

1. To help the Committee better understand the FCC's current workload and backlog, please provide the total number of items currently pending. Please include all petitions, applications, complaints, and requests pending before the FCC, including petitions for waiver, petitions for stay, petitions for declaratory ruling, applications for license renewal, applications for transfer of lines, applications for review, requests for review, etc. Please categorize these items by the Bureau primarily responsible for action and the amount of time that has elapsed since each item was filed with the FCC using the following table.

	< 6 mos.	6 mos. – 2 yrs.	2 yrs. – 5 yrs.	> 5 yrs.
Consumer & Gov't (CGB)				
International (IB)				
Media (MB)				
Public Safety (PSHSB)				
Wireless (WTB)				
Wireline (WCB)				
Other (OET, OSP, etc.)				

2. License applications, and especially renewals, are often a routine process. How many license applications and renewals are currently pending at the Commission? How many license applications or renewals have been pending for six months, two years, and five years?

<sup>1</sup> Broadcast Lawblog, *As License Renewal Cycle Approaches - Dealing With Last Cycle's Applications Held Up By Indecency Complaints*, <http://tinyurl.com/46vyrey> (Mar. 2, 2011).

<sup>2</sup> Remarks of Commissioner Meredith Attwell Baker, *Towards a More Targeted and Predictable Merger Review Process*, <http://go.usa.gov/jtf> (Mar. 2, 2011).

<sup>3</sup> *Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization*, GC Docket No. 10-44, Report and Order, 26 FCC Rcd 1594 (2011).

3. We understand that the Commission may receive hundreds of complaints from consumers each year. We are interested in how the Commission processes these complaints, and the subject matter of these complaints. Please provide the number of complaints currently pending before the FCC, categorized using the table provided in question 1. How many complaints address broadcast indecency? How many indecency complaints address broadcast material that falls within the 10 p.m. to 6 a.m. "safe harbor"? How many indecency complaints concern material received via cable service rather than broadcast? How many complaints involve junk faxes? How many complaints address slamming?
4. By definition, a petition for reconsideration or an application for review asks the FCC to reconsider a decision it has already made. As such, the FCC should be able to review and act on such petitions and applications relatively quickly. Moreover, parties often cannot obtain judicial review of an FCC decision while a petition for reconsideration or application for review is pending. Please provide the number of petitions for reconsideration and applications for review currently pending before the FCC, categorized using the table provided in question 1.
5. How many dockets are currently open at the Commission? How many of these dockets have pending items in them that the Commission has not yet addressed? How many dockets have been inactive for more than six months? Two years? Five years?
6. We are interested in tracking the Commission's progress on resolving its backlog. Please update the Committee with the information requested in questions 1 through 5 every six months for the remainder of your chairmanship.
7. You mentioned that you generally support shot clocks, and that the FCC employs a variety of shot clocks to keep track of its own performance in resolving petitions before it. One well known example is the 180-day shot clock for merger review. *See* 47 C.F.R. § 63.03(c)(2). We are interested in the shot clocks the FCC has established for itself, and how well the FCC has done in meeting those shot clocks. Please list all shot clocks codified in the FCC's rules. For each shot clock, please include:
  - (a) the citation in your rules,
  - (b) the type of item qualifying for the shot clock,
  - (c) the length of the shot clock,
  - (d) when the shot clock begins (e.g., upon filing),
  - (e) the number of items resolved since July 1, 2009, within the shot-clock period, and
  - (f) the number of items resolved since July 1, 2009, outside the shot-clock period.
8. Similar to the FCC's shot clocks, Congress has established deadlines for the Commission to act on certain petitions and to file certain reports. Please list any statutory deadlines the Commission has missed during your chairmanship, including a citation of the statutory deadline, the date of the deadline, and the date the Commission acted or filed the report. If any such actions or reports are currently overdue, please provide the expected date of compliance and an explanation for the delay.
9. We are interested in better understanding the FCC's transaction review process. How many transaction applications have been filed at the Commission in the last three years? How many of these filings were approved using the Commission's streamlined

procedures? Please list each non-streamlined merger, transfer-of-control, and transfer-of-license application filed in the last three years. For each listed application, please include:

- (a) the date the application was filed,
  - (b) the date the Commission set the application out for public comment,
  - (c) the date the comment cycle closed for the application,
  - (d) any periods during which the Commission stopped the 180-day shot clock, and
  - (e) the date the Commission approved or rejected the application.
10. When the FCC approves a transaction, it often imposes conditions or includes certain “voluntary commitments.” Please list each condition or voluntary commitment associated with a transaction approval during your chairmanship. For each listed condition or voluntary commitment, please include:
- (a) the FCC number of the relevant order,
  - (b) the date of that order,
  - (c) the names of the applicants committing to the condition or voluntary commitment,
  - (d) the date the applicants committed to the condition or voluntary commitment,
  - (e) the statutory authority the Commission has for reviewing the application, and
  - (f) what statutory authority, if any, the Commission would have had for the condition or voluntary commitment outside the transaction review provisions of the Act.
11. Please list each Notice of Inquiry, Notice of Proposed Rulemaking, and Report and Order the Commission has adopted during your chairmanship. For each listed item, please include:
- (a) the date it was adopted,
  - (b) the date it was released,
  - (c) the date it was published in the Federal Register,
  - (d) if an NPRM, the NOI initiating the proceeding (if any) and the date the NOI was adopted,
  - (e) if a Report and Order, the NPRM proposing the adopted rules and the date the NPRM was adopted, and
  - (f) if an NOI or NPRM, the length of the comment period.
12. It has been suggested that the FCC has played loose with the Paperwork Reduction Act in connection with its network neutrality rules. Please provide the Commission’s estimate of the total paperwork burden these rules would impose on industry. Please explain when the Commission shared this estimate with Commissioners and what steps the Commission took to reduce the burden. Also, we understand that the public comment period for FCC review of the paperwork burdens associated with these rules ended on April 11, close to two months ago. Has the FCC formally submitted these information collections to OMB for its 30-day review? If not, when does it plan to do so?