

Chairman Dingell at the Subcommittee on Telecommunications and the Internet hearing entitled "Oversight of the Federal Communications Commission"

Statement of Congressman John D. Dingell, Chairman
Committee on Energy and Commerce

SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET HEARING ENTITLED "OVERSIGHT OF THE FEDERAL COMMUNICATIONS COMMISSION"
March 14, 2007

Mr. Chairman, thank you for holding this hearing. It has been four years since this Committee conducted a general oversight hearing on the Federal Communications Commission (FCC). Indeed, this is the first such hearing for this Chairman, in his new role, and for two of the remaining Commissioners.

The FCC is an independent agency created by the Congress. And this Committee " a Committee on which I have proudly served for some time " has jurisdiction over the agency and the Nation's telecommunications laws.

I have great respect for the important work of the FCC and its Commissioners. The FCC writes regulations for industries that are vital to our democracy and to our economy. The laws charge the FCC with serving the public interest. That means all parties " rich, poor, minorities, small business owners, rural residents, people with disabilities " should be fairly and properly treated by the Commission and its policies.

It is equally vital that this Committee exercise vigilant and proper oversight of FCC activities. For some time, the Commission has not been subject to an appropriate level of Congressional oversight. This oversight slumber seems to have led to unwelcome consequences.

The FCC has strayed from its sole duty " that is, to implement the laws as passed by the Congress. The FCC is not a legislative body. That role resides here, in this room, with the people's elected representatives.

When the FCC loses sight of its proper role, consumers suffer, as does the credibility of the FCC. I fear that this has too often been the case.

Last December, the FCC adopted a measure concerning cable television franchises. The matter was one on which the Congress had been actively engaged. In 1984, those of us who wrote the law established well-defined and distinct roles in cable regulation for local governments and for the FCC. If reform of that regulatory structure is necessary, then it is the prerogative of Congress to undertake such action, as we have done before. It is not, however, the role of the FCC.

In this case, the Commission, not the Congress, preempted local governments on matters involving municipal property. The Commission's good intentions notwithstanding, the fact is that the Congress already assigned franchising matters, such as franchise negotiations and universal build-out requirements, to local officials.

I strongly support efforts to increase cable competition and lower prices for cable consumers, and have been working for many years to achieve both those goals. The Commission must work entirely within the existing laws to achieve that goal. That did not happen, and the Commission chose to ignore the well-settled divisions of responsibility. Such action is unwise, and may, I fear, give false hope to consumers.

Furthermore, the Commission appears to be continuing a disturbing practice of voting on measures long before they are complete. Once voted, the Commission often takes months to issue a proper order. One such delay – the AT&T-BellSouth merger order – has forced dissatisfied parties to sue over a press release. I find regulating by press release a curious way to interpret the Administrative Procedures Act.

There also is the matter of forbearing from certain statutory provisions due to agency inaction. In a recent case, a 2-2 tie resulted in the grant of a forbearance petition. Because the Commission failed to release an Order in that case, it is not clear as to the precise relief granted or the reason for the decision. It is not apparent to me how the public or the courts can judge the wisdom of agency action in such circumstances.

There is also the matter of the Commission’s responsiveness to consumers. I understand that the Commission has recently turned its attention to backlog consumer complaints, including thousands of Do-Not-Call complaints dating back to 2003. Though it is encouraging to see the commission working hard, it makes me wonder whether we need to schedule an oversight hearing every month in order to keep the business of the Commission on track.

The FCC is an important instrument of Congress, designed to help us promote the public good. Whether you have worked for political campaigns, the Executive Branch, Capitol Hill, or the private sector, it is important to remember that once one assumes a seat on the Commission, one is obligated to act independently and promote the public interest. As we all work to advance the public interest, I hope that you will choose a spirit of respect and cooperation with this Committee.

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(Contact: Jodi Seth, 202-225-5735)

Prepared by the Committee on Energy and Commerce
2125 Rayburn House Office Building, Washington, DC 20515