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

November 3, 2009

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The Honorable Julius Genachowski
Chairman
United States Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

1812

RE: In the Matter of Petitions for Declaratory Ruling Regarding Public, Educations, and Governmental Programming MB Docket No. 09-13 CSR-8126, CSR-8127, CSR 8128

Dear Chairman Genachowski:

I write to express my concern with the protracted period of time the Federal Communications Commission ("Commission") has taken to address the challenges faced by the City of Dearborn, Michigan, and other communities across the country, concerning public, educational, and governmental (PEG) channels. The Commission has been aware of these issues since December 21, 2007, when I sent a letter to Comcast and former Chairman Kevin Martin, among others, expressing my concerns with Comcast's plan to digitize PEG channels in the 15th District of Michigan, as well as treat PEG channels differently from other channels.¹ In addition, I am particularly displeased by the Commission's inaction in resolving the above-referenced Petitions for Declaratory Orders, the first of which was prompted by an order from the Honorable Victoria A. Roberts of the United States District Court for the Eastern District of Michigan.²

For some time, the Commission has been aware of the concerns raised in these petitions. They show that cable operators are exercising inappropriate control over PEG channels to make them less accessible and are claiming the right to provide PEG channels at an effectively higher price than, for example, broadcast channels carried on the basic service tier. As you are no doubt aware, 47 U.S.C. 531 provides that PEG channels are under the control of local franchising authorities, not cable operators. Additionally, Congress intended that PEG channels be viewable by every cable subscriber without the

¹ Additionally, the House Energy and Commerce Subcommittee on Telecommunications and the Internet held a hearing on these issues on January 28, 2008, and a second hearing was held on September 17, 2008, by the House Appropriations Subcommittee on Financial Services and General Government.

² The petitions were filed on December 9, 2008, January 27, 2009, and January 20, 2009, respectively. Judge Roberts's order sought the Commission's expert input on seven specific questions related to the litigation brought by the City of Dearborn and several other Michigan communities against Comcast.

The Honorable Julius Genachowski
Page 2

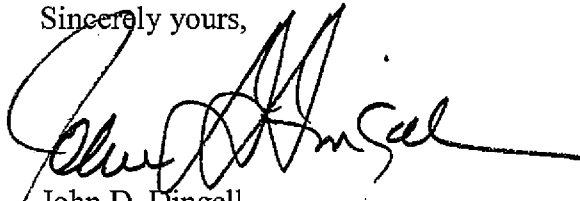
need for costly equipment.³ In short, Congress did not intend for operators to discriminate against PEG channels and therefore required under 47 U.S.C. 531(e) that a cable operator may not exercise editorial control over such channels.

Consequently, the purpose of this letter is to remind you that the Commission's delay in acting on the aforementioned petitions has resulted in damage to the PEG community, which, in addition to local governments, has borne the burden of prosecuting claims, which I believe should be championed by the Commission. In view of this, I urge you to act as expeditiously as possible on these petitions, so as to alleviate further financial and other hardship incurred by the PEG community.

Thank you for your kind attention to this matter, and please know I very much look forward to your response. Should you have any questions, please feel free to contact me directly or have your staff contact Andrew Woelfling in my office at 202-225-4071.

With every good wish,

Sincerely yours,



John D. Dingell
Member of Congress

cc: The Honorable Michael Copps
The Honorable Robert McDowell
The Honorable Mignon Clyburn
The Honorable Meredith Atwell Baker

³ "PEG programming is delivered on channels set aside for community use in many cable systems, and these channels are available to all community members on a non-discriminatory basis [...]" H.R. Rep. No. 102-628, 102nd Cong., 2nd Sess. 1992 at 85.