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December 1, 2009



*Congress of the United States*  
*House of Representatives*  
Washington, DC 20515-2201

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The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Dear Chairman Genachowski:

On January 8, 2008, the House Energy and Commerce Committee's Subcommittee on Oversight and Investigations began a formal investigation into the FCC's regulatory processes and management practices. The Energy and Commerce Committee's findings identified a number of issues and provided a roadmap for an improved FCC under your leadership.

On September 17, 2009, the Subcommittee on Communications, Technology, and the Internet held its first hearing with the newly formed Commission. During this hearing, I reiterated to you and your fellow Commissioners the enormous responsibility your agency is tasked with and the need for the FCC to make decisions in a timely, thoughtful, and fair manner. However, it was stated that while the FCC may undergo a number of procedural and management reforms without additional Congressional authorization, there was at least one issue identified where Congressional action would be necessary.

Specifically, Commissioner Michael Copps identified provisions within the "Government in the Sunshine Act" that prohibit the Commission from operating in a truly collaborative nature. The "Sunshine Act" prohibits more than two Commissioners from discussing complex and contentious issues pending before the agency, in a private setting. I am concerned that this prohibition may have the unintended effect of inhibiting the necessary exchange of ideas and frank discussions that Congress expects from a multi-member body. In order to address this issue, I have introduced legislation (enclosed) that seeks to strike a balance between the need for transparency and increased collaboration among the FCC Commissioners.

My legislation authorizes the Commission to hold limited non-public, collaborative discussions when a bipartisan quorum is present. Such discussions will be monitored by the Office of General Counsel to ensure compliance with the Act, such as a prohibition on voting. No later than five days after such a discussion is held, the Commission would be required to publish on its website a summary of matters discussed at the meeting. These collaborative discussions will be restricted solely to FCC Commissioners and staff.

PLEASE REPLY TO:

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The Commission will still be required to take official actions in a public forum. My legislation would expire five years after its enactment to allow Congress an opportunity to review its implementation and decide whether the public interest benefited.

I would appreciate a prompt response regarding my proposal from you and your fellow Commissioners. It is my hope, should my legislation be enacted, that the Commission will be better equipped to confront complex and contentious issues that have languished at the FCC for several years.

Sincerely,

A handwritten signature in black ink that reads "Bart Stupak". The signature is written in a cursive, slightly slanted style.

BART STUPAK  
Member of Congress  
BTS/ef

CC: Commissioner Michael J. Copps  
Commissioner Robert M. McDowell  
Commissioner Mignon Clyburn  
Commissioner Meredith Attwell Baker