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United States Senate

WASHINGTON, DC 20510-0906

October 23, 2008

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Martin:

Constituents in my state have expressed concern about the upcoming vote scheduled by the Commission on November 4. In particular, they are concerned with the planned action on the report released by the Office of Engineering and Technology (OET) dealing with "white space" devices.

The OET report showed that these devices failed to differentiate between occupied and unoccupied TV channels nearly 33% of the time. Also there is concern that the proposed plan to allow 40 milliwatt devices to operate on adjacent channels could interfere with consumer reception in 77% of a station's signal coverage area, leaving many constituents without acceptable broadcast service. These results show that the engineering may not be sufficient to protect viewers who are also dealing with the transition to digital television broadcasting.

I know that companies and the FCC have been experimenting for some time now on devices that work under controlled conditions, but to date none have succeeded on a consistent basis. If companies are allowed to manufacture and sell devices that ultimately cause interference to televisions, cable, and wireless microphones (which are critical for live news coverage, live music programming and sporting events) it will be difficult to determine if the interference is coming from a next door neighbor, a passing vehicle, or even within one's own home. Additionally my constituents are concerned that once these devices hit the market, it will be nearly impossible to have them recalled.

Due to the findings in the OET's technical report, it appears that additional time and more thorough deliberation should be allowed for consideration of this proposal. The Commission's usual practice of seeking public comment prior to adopting a major rule should not be disregarded on an issue of this magnitude. I would ask that you place this proposal before the public for review and comment before acting.

I appreciate your time and consideration of this request and I look forward to your response.

Sincerely,



Mel Martinez
United States Senator

cc: All FCC Commissioners