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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

April 27, 2011

Mr. Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Genachowski:

When President Franklin D. Roosevelt named the first seven Commissioners of the Federal Communications Commission (FCC) in 1934, the New York Times profiled them in an article titled, “Seven Rulers of the Air.”¹ In the years since this article was published the number of FCC Commissioners has been reduced to five but it is still accurate to say that the FCC’s Commissioners remain, “Rulers of the Air.”² With this power though, comes great responsibility and a commitment to transparency and openness.

On January 26, 2011, the FCC issued an order granting LightSquared Subsidiary LLC (LightSquared) a waiver which allowed it access to a band of spectrum which is adjacent to the spectrum used by the Global Positioning System (GPS).³ On April 6, 2011 the Associated Press reported that this decision could “overpower GPS signals across the U.S. and interfere with everything from airplanes to police cars to consumer navigation devices.”⁴ As a result, strong concerns have been raised that this decision will negatively impact industries dependent on GPS use.

When considering a decision which might have such a strong impact on GPS users and the economy at large, it is essential that that FCC take time to consider all points of view and review as much scientific evidence as possible. I was dismayed however, to find that the FCC originally planned to hold this regulation open for comment for only one week, from November 19, 2010 to November 26, 2010 and it was only at the urging of outside stakeholders that this period was extended to December 2, 2010.⁵ This accelerated timetable raises further concerns given that Phil Falcone, the Senior Managing Director of Harbinger Capital which owns

¹ New York Times, SEVEN RULERS OF THE AIR; Biographical Sketches Reveal Background of Radio-Wire Commission, All Trained in Different Fields, July 15, 1934.

² *Id.*

³ Federal Communications Commission, In the Matter of LightSquared Subsidiary LLC, January 26, 2011.

⁴ Associated Press, Joelle Tessler, New U.S. Wireless Network a Hazard for GPS, April 6, 2011.

⁵ Federal Communications Commission, In the Matter of LightSquared Subsidiary LLC, January 26, 2011.

LightSquared, faces an ongoing investigation by the Securities and Exchange Commission into a \$113 million improper transaction, which came to light in November 2010, shortly before the FCC gave notice of its dramatically accelerated timetable.⁶ If anything, this investigation should have led the FCC to proceed with caution rather than step on the gas.

Given this curious set of circumstances and in order to ensure confidence in the FCC's adjudication procedures I respectfully request the following documents:

1. All communications (including e-mails) between Phillip Falcone and any FCC employees.
2. All communications (including e-mails) between any employees of Harbinger Capital and any FCC employees.
3. All communications (including e-mails) between any employees of LightSquared and any FCC employees.
4. All communications (including e-mails) between any employees of firms under contract with Phillip Falcone, Harbinger Capital or LightSquared and any FCC employees.
5. All communications (including e-mails) between any employees of the FCC and the White House related to Phillip Falcone, Harbinger Capital or LightSquared.
6. All communications (including e-mails) between FCC employees regarding Phillip Falcone, Harbinger Capital or LightSquared.

Thank you for your cooperation and attention in this matter. I would appreciate a response by May 6, 2011. If you have any questions, please do not hesitate to contact Chris Lucas for the Committee on the Judiciary at (202) 224-5225.

Sincerely,



Charles E. Grassley
Ranking Member

⁶ Reuters, Matthew Goldstein, Falcone Pays Back Hedge Fund Loan, March 21, 2011.