

Grassley: the FCC is wrong to leave the public in the dark about LightSquared

Written by Grassley Press
Tuesday, 05 July 2011 22:35

WASHINGTON – Senator Chuck Grassley has asked the Chairman of the Federal Communications Commission (FCC) to comply with his request for information and account for the commission’s resistance to transparency to date in order to build trust in the way the commission is handling the public’s business.

“If anything, the shadows around the LightSquared project should have led the Federal Communications Commission to proceed with caution rather than step on the gas,” Grassley said. “The opposite happened and the FCC needs to be held accountable. The public spectrum is limited, and it’s a valuable asset that the Federal Communications Commission is responsible for protecting.”

Since April, Grassley has sought information about a conditional waiver granted by the FCC to LightSquared, a new wireless Internet network project. His inquiry was prompted by the project being on a fast track for government approval, despite concerns that it could jam the existing navigational systems used in farming, trucking, air travel, law enforcement, by the military and in general consumer navigation, and that the person funding the operation is a controversial hedge fund founder who is reportedly under federal investigation for questionable financial dealings.

Testing of LightSquared’s technology is ongoing. Disruption of GPS service has been identified, including for first responders, along with other interference concerns.

The text of the letter sent today from Grassley to Mr. Julius Genachowski is below.

July 5, 2011

Mr. Julius Genachowski

Chairman

Federal Communications Commission

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445 12th Street, SW

Washington, DC 20554

Dear Chairman Genachowski:

On April 27, 2011, I sent you a letter asking for documents regarding the Federal Communication Commission's (FCC) communications with LightSquared, Harbinger Capital, Mr. Phillip Falcone, and the White House. I requested a response by May 10, 2011. On May 31, 2011, over one month after my initial request, you responded with a letter that did not respond to any of my questions and offered a general defense of the FCC's expedited procedure regarding LightSquared.

When my staff followed up with your legislative affairs office to seek an explanation for your failure to be responsive, my staff was told that the FCC chose to intentionally ignore the document requests in my letter. FCC staff asserted that, as a general matter, the FCC does not respond to Congressional document requests unless they are made by the Chairmen of the House Committee on Energy and Commerce or the Senate Committee on Commerce, Science, and Transportation. In a subsequent conversation, your legislative affairs staff asserted that if a Freedom of Information Act (FOIA) request for the same information were made, the FCC could draw out the process for approximately two years and that any documents eventually provided would be heavily redacted.

As none of this information was contained in the letter you sent to me, I am writing to see if it is in fact accurate and if so, explore the FCC's apparent decision to take an extreme position against transparency, which would stifle congressional oversight and public scrutiny in direct contradiction to President Obama's stated policies and instructions on open government. In the interest of providing a full and complete answer to the questions I raised on April 27, 2011, I respectfully request that you answer the following questions. In addition, when replying to this letter, please number your answers in accordance with my questions.

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1. Does the FCC plan to respond to the document request I made on April 27, 2011?
 - a. If so, when will the FCC provide these documents?
 - b. If not, why not?

2. Is it the FCC's position that Congressional document requests are to be ignored unless they come from the Chairmen of the House Committee on Energy and Commerce or the Senate Committee on Commerce, Science, and Transportation?
 - a. If not, please cite examples between January 1, 2000 and the present when the FCC has responded to document requests made by Senators and Members of Congress who do not chair committees of jurisdiction over the FCC.
 - b. If so, is the FCC concerned that this position inhibits congressional oversight (please explain why or why not)?
 - c. If so, why does the FCC not simply treat such requests as FOIA requests and process them accordingly rather than ignore them altogether?
 - d. If so, is this a written policy?
 - i. If so, please provide the policy and state how long it has been in place.
 - ii. If not, please provide any written evidence indicating that this policy was in place prior to my letter regarding LightSquared.

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3. Was your legislative affairs staff correct in stating that a FOIA request regarding all the documents I requested in my April 27, 2011 could take approximately two years?
 - a. If so, why would it take so long and how is that consistent with statutory obligations under FOIA?
 - b. If not, approximately how long would it take to fulfill a FOIA request regarding these documents?

4. What is the average length of time the FCC has taken to respond to FOIA requests from January 1, 2006 to the present?

5. In my initial letter I noted that Mr. Phillip Falcone is being investigated by the Securities and Exchange Commission (SEC) for obtaining a \$113 million loan from his hedge fund, Harbinger Capital, to pay his taxes, without the consent of his investors. Since then, it has come to light that Mr. Falcone and his firm are also the subject of additional SEC investigations that include allegations of “market manipulation” and violations of the “short sale rule” involving three separate stocks. [\[1\]](#) According to published reports, Mr. Falcone’s hedge fund, Harbinger Capital, controls roughly 80% of LightSquared’s shares. [\[2\]](#) In continuing to support, “the opportunity presented by LightSquared” is the FCC concerned regarding these multiple investigations of Mr. Falcone?
[\[3\]](#)

6. Does the FCC have any safeguards to ensure that valuable spectrum allocations are not made to serial violators of our nation’s securities laws?
 - a. If so, what are those safeguards?
 - b. If not, why does the FCC not have such a policy?

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Thank you for your cooperating and attention in this matter. I would appreciate a written

response by July 20, 2011. If you have any questions, please do not hesitate to contact Chris Lucas on my staff at 224-5225.

Sincerely,

Charles E. Grassley

Ranking Member

Committee on the Judiciary