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March 23, 2009

The Honorable Orrin G. Hatch
Committee on the Judiciary
United States Senate
Washington, DC 20510-6275

Dear Senator Hatch:

I write to respond to your written question following from the Senate Judiciary Committee's February 25, 2009 hearing "Ensuring Television Carriage in the Digital Age" at which I testified. In your written inquiry, you ask if I believe the program access provisions written by the Congress in the early 1990s have kept pace with today's technology and market structure.

As part of the Cable Act of 1992, Congress enacted the so-called program access requirements to which you refer. Those requirements, promulgated by the Federal Communications Commission, were designed to ensure that cable could not hamper the growth of its competitors --particularly DBS-- by denying them satellite-delivered program networks in which cable operators had an ownership interest.

The rules by their very nature apply only to vertically integrated programmers --those owned in whole or in part by a cable operator. CBS is not vertically integrated and, therefore, is not covered by the program access rules. Thus, we respectfully note that we have not formulated a position as to whether the rules have kept up with technology.

Please do not hesitate to contact me for additional information if more is needed, or if I can be of assistance in any other way.

Sincerely,

A handwritten signature in black ink that reads "Martin D. Franks". The signature is written in a cursive, flowing style.

Martin D. Franks

cc: The Honorable Patrick J. Leahy, Chairman
Committee on the Judiciary

THE HONORABLE ORRIN G. HATCH
U.S. Senate Judiciary Committee
“Ensuring Television Carriage in the Digital Age”
February 25, 2009

Question for the panel:

Do you think the program access provisions written by the Congress in the early 1990s have kept pace with today’s technology and market structure?