

## Text of Deletion of Broadcast Rules Released - Nothing More Substantive than Repeal of Fairness Doctrine, Though Congress Wants More

August 24, 2011 by [David Oxenford](#)

We [wrote](#) about FCC Chairman Genachowski's announcement of the **repeal of the Fairness Doctrine** as part of the FCC's repeal of 83 media related rules. Well, the [full text of the repeal was released today](#), and the Fairness Doctrine really was the only real headline. For broadcasters, all of the other deleted rules were even less relevant than the Fairness Doctrine (which had been effectively dead for almost 25 years before it was repealed). 10 of the 83 deleted rules dealt with the "broadcast flag", an FCC rule for digitally watermarking DTV programming so that copies could be identified by their source - rules that were thrown out years ago by the Court of Appeals as exceeding the FCC's authority. Another 57 of the "deleted" rules are rules that **are still fully on the Commission's books - just in a different section of the rule book**. Decades ago, most broadcast rules were moved out of Part 1 of the FCC rules (which deals with general FCC procedures) to Part 73 (which sets out the substance of the rules for broadcasters). This week's action merely deletes the 53 rules that remained in Part 1, where the entire text of the deleted rule was to refer the reader to the corresponding rule section in Part 73, where the substantive rules still reside and are still fully enforced (including matters such as the FCC's EEO rule). So, when the FCC claims that 83 rules were deleted, that really is not saying much. These non-substantive changes, combined with the almost meaningless deletion of the Fairness Doctrine rule (see our [article](#) on that deletion) don't bring any regulatory relief, on a day to day basis, to any broadcaster.

Congress is apparently not content with these rule changes. In a [press release](#) issued this week, Chairman of the House Energy and Commerce Committee, Fred Upton, and the chair of its subcommittee on Communications and Technology, Greg Walden, welcomed the repeal of the Fairness Doctrine, but stated that they looked forward to additional deregulation pursuant to the President's Executive Order asking agencies to reduce regulation to stimulate the economy. The release also suggested that the FCC should only adopt rules after the rules were proposed and fully subject to public comment and fully reviewed to determine their effectiveness and their economic effect. The Congressmen suggested that the FCC had not always done that. Wonder what regulations they were thinking about? I've got my thoughts (perhaps [rural radio](#) or even the decision by former Republican FCC Chairman Kevin Martin to amend the

newspaper/broadcast cross-ownership rules following a decision-making process recently [criticized by the Third Circuit](#)). Any nominations from our readers?

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