



FEDERAL COMMUNICATIONS COMMISSION

June 24, 2011

JULIUS GENACHOWSKI  
CHAIRMAN

The Honorable Fred Upton  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Upton:

This responds to your letter of June 8, 2011. The effort that I initiated two years ago to identify and eliminate outmoded FCC rules that unnecessarily burden business, stifle investment and innovation, or confuse consumers and licensees, has borne fruit. As I testified during the Subcommittee's May 13<sup>th</sup> hearing, the FCC already has eliminated 49 outdated regulations and five sets of unnecessary data collections, and we have identified an additional 20 data collections for possible elimination. These reform efforts build on suggestions made by each of my colleagues on the Commission, and I appreciate their work and support.

With regard to the Fairness Doctrine and related obsolete provisions of the Commission's rules, the Commission's General Counsel has advised me that the FCC staff can eliminate these rules (which no longer have legal effect) on existing delegated authority. For efficiency, the staff is working on this together with the elimination of other outdated rules. I expect that the staff will complete action on this package of obsolete rule deletions, including the Fairness Doctrine, in August. Again, with respect to the Fairness Doctrine, this is merely a non-substantive, conforming change to the rules: The Fairness Doctrine is not enforced by the Commission and has not been applied for more than 20 years. Indeed, it could not be enforced by the Commission absent a new rulemaking proceeding, which I have no intention of commencing. With regard to my fellow Commissioners' views on the Fairness Doctrine, those views would best be stated by the Commissioners themselves.

You also asked more generally about the FCC's plan for retrospective review of its regulations consistent with Executive Order 13563. As you note, although the Executive Order does not apply to independent agencies such as the FCC, immediately after the President promulgated the Order, I directed Agency staff to comply with its spirit. The FCC has been undertaking the kind of regulatory reform called for in the Executive Order from my very first week on the job. Two of my first acts as Chairman were to name a highly respected senior career professional, Mary Beth Richards, as Special Counsel for FCC Reform, to create a reform task force, including Ms. Richards as well as our Managing Director and General Counsel. I charged Ms. Richards and the task force with identifying and eliminating outdated rules and other

unjustified burdens on industry or the public, as well as identifying other steps to improve how the FCC functions.

A purpose of this team was to reinvigorate, focus, and augment the retrospective regulatory reviews that the FCC conducts pursuant to statute. Under section 11 of the Communications Act, the FCC reviews all of its telecommunications regulations every two years and, under section 202(h) of the 1996 Act, it reviews the media ownership rules every four years. In addition, pursuant to section 610 of the Regulatory Flexibility Act, the Commission reviews regulations that may have a significant economic impact on small entities no later than 10 years after their promulgation. Section 10 of the Communications Act also broadly permits regulatees to petition for forbearance of FCC rules believed to be unwarranted – and the Commission has granted all or part of the relief sought in most such petitions.

In addition to these statutory provisions requiring retrospective reviews, at my direction the Agency launched a data initiative pursuant to which each of its Bureaus was tasked with identifying obsolete or overly burdensome data collections for potential elimination. At my initiative, the Agency also created a new Technical Advisory Committee consisting of outside experts, including a number of private sector technologists and investors, charged with identifying additional ways, including rules changes, to lower the cost of investment in telecommunications infrastructure and, thereby, spur innovation and job creation. Agency staff are also working on the prospective aspects of Executive Order 13563, in particular its directive that all major new rules be accompanied by an analysis of costs and benefits. The FCC already adheres to this practice and has been consulting with OIRA with respect to best practices.

This regulatory review process has already achieved success. As noted, the agency during my tenure has repealed 49 regulations (more than twice the number of new rules promulgated) as well as five data collections, with 20 more identified and targeted). More obsolete rules, including the old Fairness Doctrine rules that you mention, are in the pipeline for elimination. The Technical Advisory Committee has produced its first set of recommendations. And the work continues.

In sum, our plan for adhering to the spirit of Executive Order 13563 is to continue along the regulatory reform track we are on – thoughtfully and diligently conducting our statutory reviews of existing rules, augmenting those reviews to include data collections and other rules, working internally and consulting with OIRA and other experts on how best to analyze the costs and benefits of proposed rules, and seeking input from all quarters on additional ways of making the Commission a model of excellence in government.

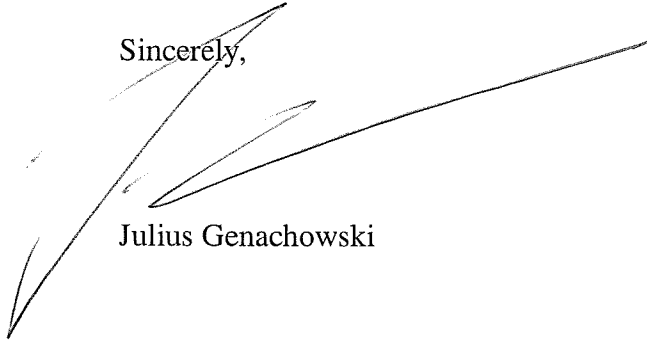
I am particularly pleased that, with the departure of Mary Beth Richards, these efforts are now being led by Ruth Milkman, previously the Chief of the Commission's Wireless Telecommunications Bureau, who became Special Counsel to the Chairman for Innovation in Government as of June 20, 2011. I am confident that Ms. Milkman and her team will continue to

Page 3—The Honorable Fred Upton

develop proposals for regulatory, statutory and procedural reforms to promote private investment, innovation, competition, job creation, and consumer benefits.

I appreciate your interest in this matter.

Sincerely,



Julius Genachowski



FEDERAL COMMUNICATIONS COMMISSION

June 24, 2011

JULIUS GENACHOWSKI  
CHAIRMAN

The Honorable Greg Walden  
Chairman  
Subcommittee on Communications and Technology  
Committee on Energy and Commerce  
U.S. House of Representatives  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Walden:

This responds to your letter of June 8, 2011. The effort that I initiated two years ago to identify and eliminate outmoded FCC rules that unnecessarily burden business, stifle investment and innovation, or confuse consumers and licensees, has borne fruit. As I testified during the Subcommittee's May 13<sup>th</sup> hearing, the FCC already has eliminated 49 outdated regulations and five sets of unnecessary data collections, and we have identified an additional 20 data collections for possible elimination. These reform efforts build on suggestions made by each of my colleagues on the Commission, and I appreciate their work and support.

With regard to the Fairness Doctrine and related obsolete provisions of the Commission's rules, the Commission's General Counsel has advised me that the FCC staff can eliminate these rules (which no longer have legal effect) on existing delegated authority. For efficiency, the staff is working on this together with the elimination of other outdated rules. I expect that the staff will complete action on this package of obsolete rule deletions, including the Fairness Doctrine, in August. Again, with respect to the Fairness Doctrine, this is merely a non-substantive, conforming change to the rules: The Fairness Doctrine is not enforced by the Commission and has not been applied for more than 20 years. Indeed, it could not be enforced by the Commission absent a new rulemaking proceeding, which I have no intention of commencing. With regard to my fellow Commissioners' views on the Fairness Doctrine, those views would best be stated by the Commissioners themselves.

You also asked more generally about the FCC's plan for retrospective review of its regulations consistent with Executive Order 13563. As you note, although the Executive Order does not apply to independent agencies such as the FCC, immediately after the President promulgated the Order, I directed Agency staff to comply with its spirit. The FCC has been undertaking the kind of regulatory reform called for in the Executive Order from my very first week on the job. Two of my first acts as Chairman were to name a highly respected senior career professional, Mary Beth Richards, as Special Counsel for FCC Reform, to create a reform task force, including Ms. Richards as well as our Managing Director and General Counsel. I charged

Ms. Richards and the task force with identifying and eliminating outdated rules and other unjustified burdens on industry or the public, as well as identifying other steps to improve how the FCC functions.

A purpose of this team was to reinvigorate, focus, and augment the retrospective regulatory reviews that the FCC conducts pursuant to statute. Under section 11 of the Communications Act, the FCC reviews all of its telecommunications regulations every two years and, under section 202(h) of the 1996 Act, it reviews the media ownership rules every four years. In addition, pursuant to section 610 of the Regulatory Flexibility Act, the Commission reviews regulations that may have a significant economic impact on small entities no later than 10 years after their promulgation. Section 10 of the Communications Act also broadly permits regulatees to petition for forbearance of FCC rules believed to be unwarranted – and the Commission has granted all or part of the relief sought in most such petitions.

In addition to these statutory provisions requiring retrospective reviews, at my direction the Agency launched a data initiative pursuant to which each of its Bureaus was tasked with identifying obsolete or overly burdensome data collections for potential elimination. At my initiative, the Agency also created a new Technical Advisory Committee consisting of outside experts, including a number of private sector technologists and investors, charged with identifying additional ways, including rules changes, to lower the cost of investment in telecommunications infrastructure and, thereby, spur innovation and job creation. Agency staff are also working on the prospective aspects of Executive Order 13563, in particular its directive that all major new rules be accompanied by an analysis of costs and benefits. The FCC already adheres to this practice and has been consulting with OIRA with respect to best practices.

This regulatory review process has already achieved success. As noted, the agency during my tenure has repealed 49 regulations (more than twice the number of new rules promulgated) as well as five data collections, with 20 more identified and targeted). More obsolete rules, including the old Fairness Doctrine rules that you mention, are in the pipeline for elimination. The Technical Advisory Committee has produced its first set of recommendations. And the work continues.

In sum, our plan for adhering to the spirit of Executive Order 13563 is to continue along the regulatory reform track we are on – thoughtfully and diligently conducting our statutory reviews of existing rules, augmenting those reviews to include data collections and other rules, working internally and consulting with OIRA and other experts on how best to analyze the costs and benefits of proposed rules, and seeking input from all quarters on additional ways of making the Commission a model of excellence in government.

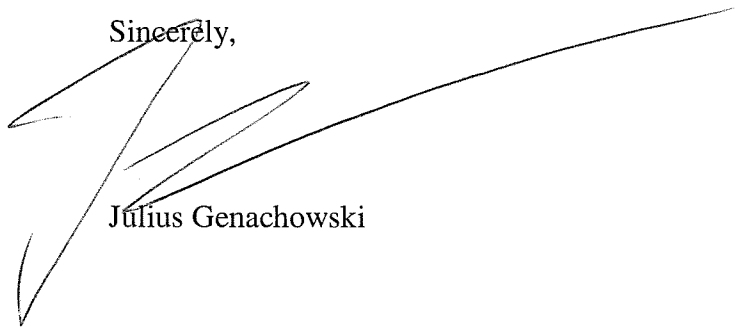
I am particularly pleased that, with the departure of Mary Beth Richards, these efforts are now being led by Ruth Milkman, previously the Chief of the Commission's Wireless Telecommunications Bureau, who became Special Counsel to the Chairman for Innovation in Government as of June 20, 2011. I am confident that Ms. Milkman and her team will continue to

Page 3—The Honorable Greg Walden

develop proposals for regulatory, statutory and procedural reforms to promote private investment, innovation, competition, job creation, and consumer benefits.

I appreciate your interest in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julius Genachowski', written over the printed name.

Julius Genachowski