

FCC Strips Enforcement Bureau of Authority to Settle Commission-Level Actions

February 10, 2017

The FCC's Enforcement Bureau will no longer have the power to settle monetary enforcement actions originally issued by the Commission under a [process reform](#) announced by Chairman Pai on Wednesday. Settlements of forfeitures proposed or imposed by the Commission will now be subject to a full Commission vote, as was the NAL that initiated the action. The announcement clarified previously unsettled issues regarding the Enforcement Bureau's delegated authority, which Chairman Pai said resulted in major settlements with little to no Commissioner input.

The Enforcement Bureau holds [delegated authority](#) under federal regulations to issue consent decrees settling investigations, levying fines, and imposing compliance obligations. The Bureau's authority to initiate monetary forfeitures is limited to actions involving \$100,000 or less. Any Notices of Apparent Liability exceeding \$100,000 require a Commission vote.

In recent years, the Bureau frequently adopted consent decrees settling significant enforcement actions initially issued by the Commission, including actions involving [consumer privacy](#), [GPS jamming](#), [universal service contributions](#), and an [unauthorized operations](#) matter adopted at an open Commission meeting. The Bureau's settlements represented a departure from [past practice](#), where the Commission regularly issued consent decrees in cases when it originally proposed or imposed a forfeiture. The settlements also created an inconsistency between Enforcement Bureau-initiated consent decrees and Media Bureau-initiated consent decrees, which the Commission [often issues](#). In addition, the consent decrees raised questions regarding the Enforcement Bureau's power to order settlement payments [exceeding the delegated authority limits](#) established by federal law.

The new settlement approval process only applies to enforcement actions originally issued by the Commission involving monetary penalties. As a result, it appears that the Enforcement Bureau retains the authority to issue consent decrees ordering large settlement payments, so long as the Commission did not initially propose or impose the forfeiture in the matter. The Enforcement Bureau also retains the authority to issue consent decrees imposing non-monetary penalties.

The consent decree reforms represent another [curtailment](#) of the delegated authority wielded by the FCC's bureaus under former Chairman Wheeler and follow reforms to the Commissioners' processes for [publicizing](#), [reviewing](#), and [supporting](#) items under their consideration announced earlier this month.