

# Intel Enters into Consent Decree Resolving Investigation into Its Importation of Unauthorized Devices, Product Demonstration and Evaluation, and Trade Show Activities

[Chip Yorkgitis](#)

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On July 2, 2014, the FCC adopted an Intel Corporation ("Intel") [Consent Decree](#) resolving the Commission's investigation into Intel's importation, operation, and marketing of prototype tablet and smartphone devices. Intel agreed to pay \$144,000 to resolve the dispute and enter into a three-year compliance plan. This matter serves as a reminder to importers, manufacturers, and others to ensure that importation, demonstration, evaluation, and marketing activities occurring before radios and digital equipment are authorized under the FCC's rules stay within the strict bounds established by those rules.

There were three different areas that the Commission targeted in its investigation of Intel following the company's voluntary disclosures of "possible violations of the rules" - importation, operation, and marketing - prior to equipment authorization. First, Intel acknowledged that, prior to 2013, it imported more than the limited quantities of units that the FCC's rules allowed prior to equipment authorization for the purposes of "testing or evaluation of compliance with the rules or suitability for marketing," provided the devices are not offered for sale or marketed. That limit, for the type of devices in question and for the period in question, was 2000 devices. (The current limit for importation for such purposes prior to equipment authorization is 4000, subject to satisfying certain conditions, as the result of a [May 2013 rule change](#).)

Second, the rules in effect at the time of the alleged violations permitted operation of radio frequency devices prior to receipt of equipment authorization for the purpose of evaluating product performance and determining customer acceptability provided the operation occurred at a manufacturer's facilities during the developmental, design, or pre-production stages. Two other exceptions allowed for operation for demonstration or evaluation purposes *either* upon the grant of a special temporary authority or an experimental license *or* under the authority and with the consent of the licensed service provider on the frequencies and in the area of operation. The Consent Decree indicates that certain Intel prototype devices were operated outside the bounds of these then-applicable limited exceptions. (The FCC's rules changes adopted in May 2013 set forth modified

limits that now apply to operation of radio frequency devices prior to equipment authorization.)

Finally, Intel acknowledged that marketed devices that had not yet been properly authorized. Specifically, Intel displayed at a trade show a prototype digital device model with a notice that (Intel believes) simply stated that the device was confidential Intel property and not for sale. The FCC's rules require a trade show display of an unauthorized device to state conspicuously and precisely that "This device has not been authorized as required by the rules of the Federal Communications Commission. This device is not, and may not be, offered for sale or lease, or sold or leased, until authorization is obtained."

Intel entered into a three-year Consent Decree with the Commission. Like most FCC consent decrees, it requires a compliance officer, training of "Covered Employees," and reporting on a regular schedule and intermittently should any violations occur. One aspect of the Intel Consent Decree that is of particular interest, and goes beyond most other similar decrees that we have seen, are Intel's commitment to maintain its current structure of management and employees with compliance responsibility within its business units or, "if it makes changes, [it] shall ensure that it maintains equivalent oversight over compliance with all Communications laws that are applicable to its operations." The Consent Decree also spells out a number of specific rule provisions in the three areas of concern - importation, operation, and marketing activities prior to equipment authorization - which must be the subject of correlated compliance measures within the company's operating procedures. Further, the Consent Decree especially targets the training of employees with certain job responsibilities within two specific Intel Group's in addition to the usual consent decree commitments that apply to a broad definition of "Covered Employee." In short, the Intel Consent decree manifests a degree of tailoring and granularity of commitment that is atypical of many other consent decrees we have reviewed. Whether this was a *quid pro quo* for a smaller voluntary contribution or some other concession or potentially foreshadows a deeper level of Commission tailoring of compliance programs cannot be ascertained from the face of the consent decree. We will continue to monitor FCC releases in this area for developments that shed further light on this question.