

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: Reorganization of the Enforcement Bureau's Field Operations, Order

Reorganizing the Enforcement Bureau's field structure has been trumpeted as a mechanism to improve efficiency and make better use of limited resources on a more constrained budget – that is, the Commission will do more with less. I am all for efforts to realize efficiencies, but given the circuitous route this plan has taken, as Commissioner Pai just indicated, and several outstanding issues, I do wonder if expectations are being set too high. As such, I concur with this plan.

The item requires that all field agents must now have electrical engineering backgrounds. In doing so, it eliminates the Compliance Specialist position. While an engineering degree may provide a valuable background for the field offices, on-the-job know-how, management experience and working relationships cultivated over years in a community very well may prove to be even more important in delivering real results. Even if it is really necessary to impose an electrical engineering prerequisite, more thought should have gone into grandfathering the six current employees whose positions will be eliminated.

The field offices are the Commission's front line on enforcement. Inevitably, the proposal to streamline field operations generated serious concerns regarding the future enforcement of our radio frequency interference rules. Take as an example, pirate radio stations, which in several areas are proliferating wildly, unchecked by the FCC. After repeated requests, some language was eventually added to this item committing to develop a comprehensive policy and enforcement approach to pirate radio. However, it does not go nearly far enough to give me any confidence that the Commission will actually do something anytime soon about the ongoing, escalating assault on the integrity of our airwaves. We already have a "comprehensive policy" on pirate radio. The policy is that it is illegal! The only acceptable "enforcement approach" is that we go after illegal broadcasting operations and shut them down, full stop.

Like several recent items, this order claims that we have statutory authority to implement this plan pursuant to Section 4(i) of the Communications Act, among others. Now, I do not view Section 4(i) as an independent grant of authority permitting the Commission to do anything it is not already authorized to do under other statutory provisions. Even if one takes a different view, the application of some sort of supposed "catch-all" 4(i) authority is unnecessary. In fact, the Commission has direct statutory authority to organize and staff the entire agency, including the field offices. Further, we certainly have specific authority to enforce our rules against pirate radio operators and change how a complaint filed with a field office would be escalated. Moreover, 4(i) is problematic when used here because it is abusing the definition and purpose of auxiliary authority.

Including references to section 4(i) and other vague provisions raises a larger issue because they have been creeping up as part of a boilerplate list of authorities in other items. Statutory authority is an imperative for everything we do and, accordingly, I firmly believe that a detailed analysis matching each action to a statutory provision should be included in items we consider. Instead, we are seeing a pattern of including a discussion of the top two or three pertinent provisions and then including a laundry list of other asserted authority without any discussion or justification. This needs to be corrected and I plan to speak more about it in the coming months.