

**Federal Communications Commission**  
**2004 Biennial Regulatory Review**  
**EB Docket No. 04-176**

**Enforcement Bureau**  
**Staff Report**  
**January 5, 2005**

## INTRODUCTION

The Enforcement Bureau (EB) is the primary organizational unit within the Commission that is responsible for enforcement of provisions of the Communications Act and the Commission's rules. EB has specific responsibility for administering rules governing formal common carrier complaint proceedings at the Commission and the imposition of forfeiture penalties.<sup>1</sup> Staff reviewed these rules to determine whether they are no longer necessary in the public interest as the result of meaningful economic competition, as required by Section 11 of the Communications Act of 1934, as amended.<sup>2</sup> As part of this review, the Commission sought recommendations from the public concerning whether these rules and procedures should be modified or eliminated.<sup>3</sup>

## REVIEW OF RELEVANT RULES

The Commission identified the following rule parts containing regulations administered by the Enforcement Bureau for review and comment in the Public Notice:

Part 1 – Practice and Procedure – Sections 1.711 to 1.736 set forth rules for the filing of formal complaints against common carriers. Section 1.80 addresses forfeiture penalties applicable to common carriers [and others].

These rules are not competition-related, and thus we cannot find that they are “no longer necessary in the public interest as the result of meaningful economic competition.” Accordingly, we find that these rules should be retained.

Rules 1.711 through 1.736 set forth the procedures for formal complaint proceedings against common carriers. Competitive developments have not affected the need for these rules. Section 208 of the Communications Act continues to permit any person to file a complaint with the Commission alleging that a common carrier has violated the provisions of the Communications Act. Indeed, in a more competitive marketplace, such complaints are often filed by one competitor against another. So long as the right to file complaints remains, the Commission's rules establishing the procedures for filing those complaints remain necessary. No party has filed comments arguing to the contrary. Accordingly, we do not find that these rules are “no longer necessary in the public interest as the result of meaningful economic competition between providers of [telecommunications] service,” but rather find that they should be retained.

Rule 1.80 sets forth who may be subject to a forfeiture penalty for violation of the Communications Act or Commission rules and orders, the limits on the amount of the forfeitures that may be assessed, and guidelines for determining the amount of such

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<sup>1</sup> 47 C.F.R. §§ 1.80 and 1.711-1.736.

<sup>2</sup> 47 U.S.C. § 161.

<sup>3</sup> *Public Notice, The Commission Seeks Public Comment in the 2004 Biennial Review of Telecommunications Regulations – EB Docket No. 04-176*, FCC 04-105, May 11, 2004.

forfeitures. Competitive developments have not reduced the need for these rules. Enforcement is even more important in a competitive marketplace, to ensure that the market is able to function without unlawful interference, and thus rule 1.80 remains necessary in the public interest. No parties argued for elimination of this rule, and we find that it should be retained.

### **CONCLUSION**

The staff's review of the rules 1.711 through 1.736 and 1.80, as well as its review of comments submitted in connection with the biennial review proceeding, do not support elimination or modification of the subject rules. Staff concludes that the public interest warrants retention of these rules in their current form to help ensure the proper functioning of a competitive marketplace.