



NEWS

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See *MCI v. FCC*, 515 F.2d 385 (D.C. Cir. 1974).

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JOINT STATEMENT OF COMMISSIONERS AJIT PAI AND MICHAEL O’RIELLY ON THE ABANDONMENT OF CONSENSUS-BASED DECISION-MAKING AT THE FCC

Commissioner Pai stated:

“It was once said that this agency ‘is a Commission, not a sole proprietorship.’¹ Not today.

The Chairman’s Office directed the Wireless Telecommunications Bureau to release today two major items. The first abdicates the annual responsibility Congress gave the Commission—not the Bureau—to make an assessment of the state of competition in the wireless industry. The second grants a T-Mobile petition that asked the Commission—not the Bureau—to regulate cellular data roaming rates by providing guidance on what the *Commission* meant in its 2011 data roaming order. FCC decisions issued on the Bureau level cut the Commissioners out of the decision-making process entirely.

This is not how democracy works. And it’s not how the FCC in particular has ever worked. Commissioner O’Rielly and I jointly requested that the items be brought before the Commission for a simple up or down vote, consistent with both the law and the long-standing practice of both Republican and Democratic FCC Chairmen. The Chairman’s Office refused. I am not aware of a situation in which similar requests from two Commissioners for a Commission-level vote has been rejected (the usual course is to accommodate even one request). Bad enough as the refusal to negotiate with other Commissioners (not just Republicans) is, it’s even worse not to allow other offices any input whatsoever.

Bad process makes for bad policy. And today’s antics simply underscore the need for Congress to maintain its focus on FCC process reform. I welcome and applaud the bipartisan congressional efforts to enact FCC process reform legislation. And I hope that the new year yields successful legislative efforts to ensure that we—plural—are an independent agency.”

¹ See Hearing on the Nomination of Thomas E. Wheeler to be Chairman of the Federal Communications Commission Before the U.S. Senate Committee on Commerce, Science, and Transportation (June 18, 2013) (Testimony of Thomas E. Wheeler), *available at* <http://www.c-span.org/video/?c4519926/confirmation-hearing-thomas-wheeler-chairman-fcc>.

Commissioner O’Rielly stated:

“In my time at the Commission so far, I have shown myself to be willing to vote quickly on items before me (although not everyone may always like how I cast my vote, especially if rushed). But on these and a number of other items, the full Commission has not been given any opportunity to consider and vote on – quickly or otherwise – the merits. I strongly object to the continued effort to delegate decisionmaking authority to the bureaus. I didn’t just go through the confirmation process in order to have bureaus and advisory committees make decisions that should be made by Commissioners. Both of these items should be brought before and debated by the Commission. These are not trivial items and, like all Commission decisions, would benefit from my colleagues’ input. I am especially concerned that today’s action will set precedent that will be used again and again.”