

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *In the Matter of Bear Down Brands, LLC dba Pure Enrichment*, File No. EB-SED-17-00024115

Given that a primary function of the Commission is to protect the integrity of the nation's airwaves, we must vigorously enforce our radio frequency (RF) rules. Generally, I believe enforcement serves three main functions: generates corrective behavior for those individuals out of compliance with our rules; appropriately deters other entities from cutting corners or worse, such as ignoring our requirements altogether and placing communications services at risk; and compensates the American public for the potential harm caused. Unfortunately, however, the enforcement of our equipment marketing rules, which is the principal way of ensuring that RF devices operate effectively without causing harmful interference, falls far short. The base forfeiture is \$7,000 for any model that does not comply with these requirements. And, that is \$7,000 regardless of whether one device of a certain model was sold or a million; whether it resulted in net profits of \$1 or \$1 billion; or if these devices were out of compliance for one day or one year. This is by no means the fault of the Chairman, but a larger issue far preceding his tenure.

In the specific case before us, some of the models by Pure Enrichment failed to comply with multiple requirements, including having the requisite equipment authorization, the proper manual disclosures, and/or FCC labels. To make matters worse, even after the company was informed of the apparent rule violations, it continued to market 14 noncompliant devices for some time and, in fact, one of these noncompliant models is allegedly still being marketed today. While forfeitures can be upwardly adjusted to account for the severity of the violation, as is done here, it still does not excuse the totally inadequate base forfeiture of \$98,000 for the serious violations revealed in this item. Compare this proposed forfeiture to robocall violations where the Commission assesses penalties per phone call, resulting in multi-million-dollar fines.

I thank the Chairman for agreeing to increase the proposed fine, so that the punishment better fits the violation, and committing to review the Commission's forfeiture policies in the future. I do not believe that it is ideal to formulate upward adjustments, in large part, on a percentage of gross revenues earned from selling noncompliant devices; but, in this instance, it appears to be the best metric that we have to derive an appropriate penalty and is consistent with our mission. Hopefully, we will be able to update the Commission's forfeiture policy soon so that the baseline penalties are more reflective of the severity of these violations. Not only would this diminish our reliance on upward adjustments, but it would also improve the transparency, consistency, and credibility of our enforcement process. I look forward to working with the Chairman to improve our enforcement policies at the appropriate time and ensure that they meet the needs of the public and the communications marketplace.