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FCC Slaps $590K Fine on Consumer Products Company, Says It Should Have Been Higher

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The Federal Communications Commission has hit a manufacturer of air filters, humidifiers, energy lamps, oil diffusers and similar products with a proposed fine of almost $600,000. Pure Enrichment is being fined for multiple violations of the FCC's labeling, marketing and equipment authorization rules, and the order suggests that larger fines may be coming in the future. The order highlights any product or device that uses a microprocessor must comply with FCC rules or face potentially heavy fines.

The FCC found that Pure Enrichment marketed 14 different products without complying with the labeling, user manual and equipment authorization rules. Pure Enrichment had not tested five of the products for compliance with the rules, 12 of the products were not properly labeled, and none of the products included FCC-required information in their manuals. Pure Enrichment also continued selling these products after being notified of the violations by the FCC. Given the breadth of the violations, the company's failure to stop selling the products after it was aware of its violations and the economic benefit of selling the noncompliant products, the FCC proposed a fine of $590,380. This is more than six times the standard fine for this kind of violation.

This decision highlights several key issues for companies that make consumer products:

- **Any product that contains a microprocessor or that produces radio waves should be evaluated for compliance with equipment authorization and related rules in every country where it will be sold.** None of the products involved in this case had a radio transmitter that communicated with another device, but all of them had microprocessors or otherwise emitted radio waves. While this case involved the FCC, nearly every country in the world has similar rules.
- **The FCC may be looking beyond computer products and products that contain transmitters in enforcing its rules.** While the rules always have covered nearly any product that could emit radio waves, in the past the FCC has focused mostly on products that contained transmitters or that were computer-related. As microprocessors become ubiquitous, the FCC likely will begin enforcing its rules more vigorously for consumer products.
- **Compliance with the rules includes proper labeling and other disclosures.** The FCC's proposed fine was not just for failure to test the products, but also for not labeling the products and for omitting required disclosures in the product manuals. The FCC also will fine companies for falsely labeling products that have not been tested.
- **Fines will be much greater if a company keeps selling a product after it becomes aware of violations.** The proposed fine likely would have been smaller if Pure Enrichment had stopped selling the products as soon as the FCC told it about the violations.

The order also raises the possibility that the FCC may change its rules on fines for equipment violations to increase the standard fines substantially. FCC Commissioner Michael O'Rielly, in a statement released with the order, indicated the fine against Pure Enrichment should have been higher, described the current standard fines for equipment violations as "totally inadequate" and said that the FCC's chairman had committed to reviewing the agency's policies for these violations in the future. If that happens, the risks of ignoring or violating the equipment authorization rules will become much more significant.

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Key Contacts

Christy Burrow Washington, DC	cburrow@cooley.com +1 202 776 2687
J.G. Harrington Washington, DC	jgharrington@cooley.com +1 202 776 2818

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