

FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554 FCC DIRECTIVE	TITLE	
	Debt Collection	
	Directive Number: FCC INST 1064.5	Effective Date: May 22, 2023

1. **PURPOSE:** This directive sets forth the policies and procedures of the Federal Communications Commission (FCC or Commission) pertaining to the collection, compromise and termination of collection of non-tax Debts owed to the Commission, including Debt owed to the Commission’s reporting components.
2. **CANCELLATION:** This instruction supersedes FCCINST 1064.4, Debt Collection, dated April 2016.
3. **SCOPE:** This directive applies to all of the Commission’s bureaus and offices and reporting components.
4. **AUTHORITY:**
 - A. The Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996) (*codified* at 31 U.S.C. §§ 3701 through 3720E), as amended.
 - B. FCC regulations implementing the DCIA, 47 CFR Part 0 (47 CFR §§ 0.11 through 0.392) and Part 1 (47 CFR §§ 1.1901-1.1953).
 - C. Federal Claims Collection Standards, 31 CFR Parts 900 through 904.
5. **DEFINITIONS:**
 - A. **Administrative Offset or Offset.** Application of funds payable by the United States to or held by the United States for a Debtor against a Debt owed by the Debtor to the United States, resulting in full or partial payment of the Debt. The FCC may offset Debt owed to it against monies it owes to a Debtor, sometimes referred to as internal administrative offset. In addition, Treasury’s Bureau of the Fiscal Service (BFS) may offset Debt referred to it by the FCC against federal payments owed to the Debtor, through the Treasury Offset Program.
 - B. **Consent Decree (CD).** An agreement resolving an investigation or forfeiture proceeding pertaining to a violation of the Communications Act, a Commission rule, order, or authorization term or condition, through a voluntary contribution to the Treasury and requirements for future administrative compliance.

- C. Debt. An amount of money, funds, or property that has been determined by an agency official to be due to the United States from any person, organization, or entity (“Debtor”), except another federal agency. A Debt is delinquent when it has not been paid by its due date, unless other satisfactory payment arrangements have been made.
- D. Demand Letter. The initial step of the Commission’s Debt collection procedures in which the Office of the Managing Director’s Financial Operations (OMD-FO), or a third party at the direction of OMD-FO, sends a letter and/or an invoice to a Debtor demanding full payment of a Debt by a certain date and providing notice as required by law.
- E. Forfeiture Order (FO). An order issued by the Commission, or the Enforcement Bureau (EB) or the Media Bureau (MB) on delegated authority, assessing a monetary forfeiture for a violation of the Communications Act, or a Commission rule, order or authorization or condition.
- F. Notice of Apparent Liability (NAL). A preliminary notice issued by the Commission, or by EB or MB on delegated authority, to the NAL recipient providing the legal and factual basis for the proposed forfeiture, the proposed forfeiture amount, and describing the NAL recipient’s right to provide a written response to the NAL.
- G. Red Light Rule. Pursuant to the “Red Light Rule,” the Commission will not act on any application or request for benefit filed by a party that owes Debt to the Commission, unless one of the exceptions set forth in section 1.1910(c) of the Commission’s rules applies. The delinquent Debtor must pay its Debt in full or make payment arrangements satisfactory to the Commission. Failure to do so will result in dismissal of the Debtor’s filing. *See* 47 CFR §§ 1.1910, 1.1111, 1.1118, 1.1161 and 1.1164.

6. BACKGROUND:

The Debt Collection Improvement Act of 1996 (DCIA), as amended, requires that federal agencies collect Debts, assess penalties, interest and charges of collection and transfer delinquent Debts to the U.S. Department of the Treasury (Treasury) for further collection action or, as appropriate, refer Debts to the U.S. Department of Justice (DOJ) for enforced collection. The Federal Claims Collections Standards promulgated by DOJ and Treasury and FCC Debt collection regulations implement the DCIA. The Commission’s Office of the Managing Director (OMD), and in particular, OMD’s Financial Operations group (OMD-FO) is responsible for administering collection of outstanding Debts owed to the Commission.

7. POLICY:

A. The Commission will:

- (1) Aggressively pursue collection of delinquent Debts owed to the Commission;
- (2) Provide Debtors with the required due process, including as set forth at 47 CFR § 1.1911, prior to offsetting any payments to the Debtor or referring delinquent Debts

- to Treasury or DOJ for collection;
- (3) Negotiate, approve, or reject requests for Debt compromise and/or installment payment of Debts pursuant to 31 CFR §§ 1.1914 and 1.1915. Compromise of Debts in excess of \$100,000 are subject to DOJ approval;
 - (4) Accord hearings to Debtors, if requested;
 - (5) Report all activities regarding outstanding Debts on the Treasury Report on Receivables;
 - (6) Pursuant to the Red Light Rule and, subject to the exceptions set forth in 47 CFR § 1.1910, bar delinquent Debtors from receiving Commission benefits and withhold action on applications until Debts owed to the Commission are paid or otherwise resolved; and
 - (7) Negotiate and accept, as appropriate, installment plans following imposition of an NAL, an FO or a CD.

8. ROLES AND RESPONSIBILITIES:

A. Office of Managing Director. Pursuant to delegated authority, the Office of Managing Director's responsibilities include:

- (1) Overseeing all administrative determinations under the DCIA pertaining to Debts owed to the Commission, including the establishment thereof, collection, compromise, and suspension and termination of collection of Debts not more than \$100,000;
- (2) Overseeing the creation and management of internal procedures to monitor the Commission's Debt collection activities; and
- (3) Ensuring that the Commission's financial management systems comply with all applicable Debt collection rules and regulations.

B. Chief Financial Officer and Deputy Chief Financial Officer. The Managing Director has delegated to the Chief Financial Officer (CFO) and the Deputy Chief Financial Officer (DCFO) the authority to perform all administrative Debt determinations, including:

- (1) Establishment and collection of Debt owed to the Commission, and compromise, suspension or termination of collection action on Debt not more than \$100,000;
- (2) Monitoring compliance with government policies and directives regarding Debt collection;
- (3) Ensuring compliance with 31 U.S.C. § 3711(g)(1), 31 U.S.C. § 3716(c)(6) and 31 CFR Part 285.12 by transferring to Treasury non-tax Debt that is 120 days delinquent;
- (4) Ensuring compliance with Internal Revenue Service directives and rules concerning compromise or discharge of Debt; and
- (5) Creation and management of internal procedures to monitor the Commission's Debt collection activities.

C. Financial Operations Revenues & Receivables Operations Group. The Financial Operations Revenues & Receivables Operations Group's responsibilities include:

- (1) Maintaining an accounts receivable financial subsystem which properly records, tracks and posts amounts from inception of the Debt through termination;
- (2) Determining when a Debt is delinquent;
- (3) Ensuring that appropriate Debt collection procedures are followed and providing guidance and recommendations to the CFO, DCFO and others within the FCC on those procedures, and the status of Debts as needed;
- (4) Issuing Demand Letters requiring full payment of a delinquent Debt by a certain date and providing notice as required by law;
- (5) Reviewing and certifying cases prior to referral to Treasury; and
- (6) Handling and resolving discrepancies and disputes regarding Debt balances.

D. Bureaus and Offices. The Commission's bureaus and offices are responsible for assisting the Managing Director and the CFO in carrying out Debt collection functions by:

- (1) Providing necessary information to OMD and/or the Office of General Counsel (OGC) (OGC has coterminous authority in Debt administration with OMD under 47 CFR § 0.251(i)) to assist those offices in their administrative Debt determination and collection responsibilities;
- (2) Reviewing application filings and the Commission's red light list of delinquent Debtors to determine whether all fees and other Debt owed to the Commission have been paid and whether an application should be dismissed or an application grant rescinded for non-payment of Debt owed to the Commission;
- (3) Notifying an applicant of its red light status in compliance with 47 CFR § 1.1910; and
- (4) Assisting OMD during the annual regulatory fee filing process by verifying that the license, application, or other filing assessments are correct.

9. PROCEDURES FOR COLLECTION OF DEBT OWED TO THE COMMISSION:

A. Establishing Debt. A Debt comes into existence when an appropriate agency official determines that a Debt exists. *See* 37 U.S.C. §3701(b)(1); 47 CFR 1.1901(e). The Commission has delegated Debt determinations under the DCIA to OMD and OGC. 47 CFR §§0.231(f), 0.251(i). An exception is forfeitures established by an NAL or a FO. A forfeiture is not a Debt until: (1) after issuance of a notice of apparent liability, any portion of the proposed forfeiture is paid; (2) is to be paid pursuant to a CD; or (3) is the subject of a final order requiring payment issued by a court of competent jurisdiction.

B. Demand for Payment. A demand for payment must be made in writing. Any written form of communication suffices as long as it complies with the DCIA, the Commission's Debt collection regulations, and constitutional due process requirements. Written demand must, at a minimum, include:

- (1) The amount of and the basis for the Debt, and the opportunities to request a Commission review of the indebtedness;
- (2) The applicable standards for assessing interest, penalties, and administrative charges;

- (3) The date by which payment is to be made to avoid interest, penalties, late charges and enforced collection;
- (4) The name, address, and telephone number of a Commission point of contact;
- (5) The Commission's willingness, if applicable, to discuss alternative methods of repayment;
- (6) A description of the consequences of a Debtor's red light status; and
- (7) Other collection remedies available to the FCC including administrative offset and mandatory referral of the Debt to Treasury for further collection.

10. RED LIGHT RULE PROCEDURES:

- A. Prior to processing any application or request for benefit filed by a regulatee, bureaus and offices shall determine whether the applicant has paid the appropriate application and regulatory fee(s). This check is done by using the applicant's FCC Registration Number (FRN) to check the Commission's Red Light Display System to determine whether the applicant, or any regulatee with the same taxpayer identification number as the applicant, owes any other Debt to the Commission. This check must be performed when the application or request for benefit is first filed and, again, as close as possible to its grant or denial date.
- B. In no case should the application be granted until the delinquent Debt has been paid or otherwise resolved, except as provided in 47 CFR §§ 1.1910(b)(3)(i), (ii) and (c). If an applicant has not paid the appropriate fee, or the applicant or any other entity with the same tax payer identification number is on red light, the applicant will be notified that action will be withheld on the application or request for benefit until full payment or an arrangement to pay has been made. If the Debt and/or the fee remains unpaid 30 days after the notification, the application will be dismissed, unless the applicant has notified the Commission that it is actively making expedited arrangements to submit the full payment.

11. PROCEDURE FOR REFERRAL OF DELINQUENT DEBTS TO TREASURY OR TO DOJ FOR LITIGATION AND ENFORCED COLLECTION:

- A. Except as set forth below, all non-tax delinquent Debt that is legally enforceable according to Treasury regulations must be referred to the Treasury for administrative offset and cross servicing within 120 days of delinquency. *See* 31 CFR § 285.12; 31 CFR § 901.01; 31 CFR § 3716 and 47 CFR § 1.1917. OMD-FO is responsible for ensuring that delinquent Debts are transferred to Treasury. The following Debts are exceptions to the 120 day referral rule:
 - (1) Debts that are not legally enforceable;
 - (2) Debts under appeal;
 - (3) Debts in litigation or foreclosure proceedings;
 - (4) Debts of another federal agency;
 - (5) Debts which are scheduled for sale under an approved asset sale program;
 - (6) Debts which have been referred to a private collection contractor for a period of

- time acceptable to the Secretary of Treasury;
- (7) Debts which have been referred to Treasury-designated “debt collection centers” for a period of time acceptable to the Secretary of Treasury;
 - (8) Debts which will be collected within three years of the date of delinquency through internal offset procedures;
 - (9) Debts that are being paid and are current in payment under installment payment agreements with the FCC; and
 - (10) Debts exempt by order of the Secretary of the Treasury.

B. OGC refers certain Debts to DOJ for adjudication and collection on its behalf, including forfeitures, fraud claims, and claims against Debtors in bankruptcy. Referral shall be in accordance with 31 CFR Part 904 and 47 CFR § 1.1917.

12. INTEREST, PENALTY AND ADMINISTRATIVE CHARGES:

A. Under the DCIA and implementing regulations, except as explained in paragraph B below, the Commission must assess interest, a 6% penalty, and administrative charges on Debts owed to the Commission. Generally, interest on the Debt accrues from the date of delinquency, according to an annual rate established by Treasury, and continues to accrue at the same rate for the term of the indebtedness. If a Debt has not been paid in full within 90 days of its due date, the Commission assesses a penalty of 6% per year on the unpaid Debt, accruing from the date of the Debt became delinquent. The Commission also assesses an administrative charge for processing delinquent Debt. *See* 31 U.S.C. § 3717, 31 CFR § 901.2 and 47 CFR § 1.1940.

B. The Commission is required by section 9A of the Communications Act, as amended by the RAY BAUM’s Act of 2018, to assess a 25% late payment penalty on delinquent regulatory and application fee Debts. The unpaid regulatory or application fee and the 25% late payment penalty will accrue interest at the DCIA rate until the Debt is paid in full. However, the Commission may not assess administrative charges or the 6% penalty described in paragraph A above on delinquent application or regulatory fee Debt.

13. EFFECTIVE DATE AND IMPLEMENTATION: This directive is effective immediately and shall be implemented promptly upon distribution.



Mark Stephens
Managing Director