



Federal Communications Commission
Washington, D.C. 20554

September 1, 2004

Small Entity Compliance Guide

Debt Collection and Red Light Rule

DA 04-2846

MD Docket No. 02-339

This Guide is prepared in accordance with the requirements of Section 212 of The Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the above-referenced FCC rule. This Guide is not intended to replace the rule, and final authority rests solely with the rule. While we have attempted to cover all parts of the rule that might be especially important to small entities, the coverage may not be exhaustive. In any civil or administrative action against a small entity for a violation of a rule, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. This Guide may not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be made based on the statute and regulations. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update text. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)

TTY: 1-888-TELL-FCC (1-888-835-5322)

Fax: 202-418-0232

fccinfo@fcc.gov

Compliance Requirements

1. General Responsibility

Entities or individuals doing business with the Federal Communications Commission (FCC) must pay their debts to the FCC in a timely manner. Our debt collection rules explain how entities or individuals are notified of debts owed to the FCC, and how the FCC will collect those debts. The rules also explain that if you fail to pay debts owed to the FCC, the debts will be referred to the Department of Treasury for collection; your failure to pay will be reported to credit reporting agencies; and you will be unable to obtain any licenses or other benefits from the FCC.

2. Sources and Links

- **The FCC's Decision:** Amendment Of Parts 0 And 1 Of The Commission's Rules/Implementation Of The Debt Collection Improvement Act Of 1996 And Adoption Of Rules Governing Applications Or Requests For Benefits By Delinquent Debtors, Report and Order, FCC No. 04-72 (Apr. 13, 2004).
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-72A1.pdf
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-72A1.doc
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-72A1.txt
- **The FRN Requirement:** To obtain an FCC Registration Number, go to <https://svartifoss2.fcc.gov/cores/CoresHome.html>
- **Debt Collection by the Universal Service Administrative Corporation:** <http://www.universalservice.org/serviceprovider/dcia.asp>

3. Important Definitions

- Benefit** refers to any request from the FCC or reporting component that requires you to provide an **FCC Registration Number (FRN)** (defined below), whether or not you must pay a fee. See the definition of “**Doing Business with the FCC**” below.
- Centralized Administrative Offset** can occur when a debt is transmitted to Treasury for centralized administrative offset, or centralized administrative offset is utilized as part of cross-servicing, the name and taxpayer identification numbers (“TIN”) of the debtor are compared to their names and TIN’s on any payments to be made to the debtor by any Federal disbursing officials, which include officials of the United States Postal Service, Department of Treasury and other departments. If there is a match, and all procedural requirements for due process have been met, the payment will be offset against the amount due the Commission.

- c. **Claim or debt** refers to the amount of money or property that has been determined to be due. A claim or debt may arise in a wide variety of situations. 47 C.F.R. § 1.1901(e).
- d. **Delinquent** means a claim or debt not paid by the specified date unless other satisfactory arrangements have been made. 47 C.F.R. § 1.1901(i).
- e. **FCC** as that name is used in this context includes the Federal Communications Commission, the Universal Service Fund (USF), the Telecommunications Relay Service Fund (TRS), the North American Number Plan (NANP), or any other components of the FCC that may be included in the agency's financial statements. 47 C.F.R. § 1.1901(b) and (p).
- f. **Doing Business with the FCC** is defined in 31 U.S.C. § 7701(c)(2) and includes, but is not limited to, anyone
 - i. required to pay application or regulatory fees;
 - ii. applying for a license (whether or not a fee is required);
 - iii. participating in a spectrum auction;
 - iv. holding or obtaining a spectrum auction license or loan;
 - v. paying statutory charges on behalf of another entity or person;
 - vi. contributing to the USF, TRS, or NANP;
 - vii. beneficiaries of the USF, TRS, or NANP;
 - viii. entering into an installment payment plan; or
 - ix. paying an administrative debt such as Freedom of Information Act fees (FOIA) or reimbursements associated with sponsored travel (1353).
- g. **FRN** refers to the FCC Registration Number entities or persons doing business with the FCC are required to obtain. 47 C.F.R. § 1.8001.
- h. **TIN** refers to the taxpayer identifying number. The TIN for businesses is usually the employer identification number (EIN) and for individuals it is the Social Security Number (SSN).

4. **How do debts arise?**

If you are doing business with the FCC and as a result owe money to the agency, you will receive a bill specifying the amount due, the payment due date, and where to send payment. The debt may arise in a wide variety of instances, including regulatory fees and application fees, payments to the USF, TRS, or NANP, payments on loans under the spectrum auction program, FOIA's and 1353 travel.

5. What If I Don't Agree With A Debt?

You may challenge the validity of any debt within 15 days of notice of the debt. You may request copies of FCC records related to the debt. You should explain in writing exactly why you believe the debt is incorrect and address it to:

Federal Communications Commission
Attn: Revenue and Receivables Operations Group
445 – 12th Street S.W. Room 1-A821
Washington, DC 20554

or e-mail to

ARINQUIRIES@fcc.gov

In the case of regulatory fees or application fees, you must pay the fee first and if it is later determined that the fee was wrongly assessed, you will receive a refund.

6. What If I Pay A Debt Late?

If you pay a debt late (usually more than 30 days after the date of the bill) interest will be added to the debt. Additionally, administrative fees or penalties may also be added to the debt. You will receive another letter informing you of the unpaid debt, and any additional interest, penalties, or fees 30 days after the payment was due.

7. What If I Don't Pay The Debt?

- a. Past due, non-tax legally enforceable debts of over \$100 that are over 180 days delinquent must be referred to the Department of Treasury for centralized administrative offset. This means Treasury will match the debts against payments that might be owed to you from other Federal governmental entities (including tax refund payments), and will reduce those payments by the amount of your debt to the FCC. You will receive notice informing you of our intent to transfer the debt to the Department of Treasury (Treasury).
- b. If you have a loan from the FCC and do not pay according to its terms, the full amount of the debt under the loan, plus any interest or penalties is accelerated (that is, it becomes due in full) and the debt is referred to the Treasury. You will receive a notice informing you of our intent to refer the debt to Treasury.
- c. If you are delinquent in debt owed to the FCC, and the FCC owes you money, we may at our discretion on a case-by-case basis offset your delinquent debt against payments owed to you. This internal offset applies to debts involving the FCC and all of its reporting components (USF, TRS, and NANP).

- d. If mandatory centralized offset is not possible Treasury and the Department of Justice will take necessary legal action to collect the delinquent debts. Treasury may use third-party debt collection companies to collect the debt.
- e. An individual's debts may be reported to a consumer reporting agency, but if we do so, we will first notify you to give you the opportunity to review the debt to determine that it is valid and overdue.

8. What If I Can't Pay The Debt?

If you are financially unable to pay a debt owed to the FCC in one lump sum, you may request an installment payment plan. You will have to justify this request, and we will require you to enter into legally enforceable written agreements supporting the arrangement. See 47 C.F.R. Part 1, Subpart O §1.1914.

You may seek to have the debt compromised, *i.e.*, reduced in amount. You will have to submit appropriate financial information justifying the request. However, the FCC is only authorized to do so when the principal balance of the debt is less than \$100,000. Only the Department of Justice may compromise debts exceeding \$100,000.

Collection action also may be suspended or terminated by the FCC for debts of less than \$100,000. For larger amount, the Department of Justice must approve such action. Suspension of collection activity can occur, for example, if the debtor cannot be located, or if the debtor cannot presently pay but may be able to pay in the future. Collection may be terminated if the government cannot collect or enforce collection of any significant sum from the debtor, the debtor cannot be located, the cost of collecting the debt will exceed the recovery, or the claim has no legal merit or cannot be substantiated by evidence

If you are in bankruptcy, you should notify the FCC. In most cases, the automatic stay imposed at the time the bankruptcy petition is filed will stop collection activity.

9. What Is The "Red Light" Rule?

The "red light" rule simply means that if you are delinquent in debt owed to the FCC, we will not grant your application or give you other benefits until your debt to the FCC is resolved.

When you file an application or request any other benefit from the FCC, you must provide your FCC Registration Number (FRN). If you don't have one, you should obtain one from the FCC's CORES website, <https://svartifoss2.fcc.gov/cores/CoresHome.html>. Starting October 1, 2004, your TIN information will be matched with our database of debts owed to the FCC to determine whether you are delinquent in any debt owed to the FCC. A debt that is being challenged either at the FCC or in court is not covered by this rule.

If we determine that you have outstanding delinquent debt owed the FCC, a “red light” is triggered on our systems. You will receive a notice that your application or other request for benefit will not be processed pending resolution of the delinquency. If you do not pay the delinquent debt or make satisfactory payment arrangements within 30 days, your application or other request for benefit will be dismissed, and we will proceed with collection activity on the debt.

There are some limited exceptions to the “red light” rule. Applications for emergency or special temporary authority involving safety of life or property, including national security emergencies or involving a brief transition period facilitating continuity of service, will not be subject to the “red light” rule. But when permanent authorization is sought the rule will apply. Also, the rule does not apply if the automatic stay provisions of the Bankruptcy Code are applicable.

Finally, you may be subject to the more restrictive rule governing delinquent debtors, such as 47 C.F.R. §§ 1.2105(a) (2) (x) and (xi) (spectrum action rules).

10. What Is Administrative Wage Garnishment?

Under Department of Treasury rules, incorporated into our rules (47 C.F.R. § 1.1936), we may collect money owed to the FCC by garnishing wages of the delinquent debtor without first obtaining a court order. This may occur for delinquent debts of individuals or businesses that are sole proprietorships or partnerships.