

OFFICE OF INSPECTOR GENERAL

MEMORANDUM

DATE: August 1, 2000

TO: Chairman

FROM: Inspector General

SUBJECT: Report on Audit of the Federal Communications Commission (FCC) Civil Monetary Penalty Program

The Office of Inspector General (OIG) has completed an audit of the Commission's Civil Monetary Penalty Program. A copy of our Audit Report, entitled "Report on Audit of the Federal Communications Commission (FCC) Civil Monetary Penalty Program" is attached for your review and comment. The objective of this review was to determine if the Commission has established an effective program for managing civil monetary penalties. To conduct this review, we examined all aspects of the process by which the Commission manages civil monetary penalty actions.

Based on the results of the audit, the auditors have concluded that the Commission has not established an effective program for managing civil monetary penalty actions. Specifically, we determined that the information system used to track civil monetary penalty cases, the Fines and Forfeitures Tracking System (FFTS), does not accurately track and report the status of civil monetary penalty actions. We identified several factors that contribute to the poor quality of data in the FFTS. These include: (1) lack of policies and procedures for monitoring the status of penalties and governing use of the FFTS to track forfeiture data; (2) FFTS is not updated in a timely and accurate manner; (3) Bureaus are not providing timely and accurate status information; and (4) weaknesses exist in the structure of the FFTS.

An effective system for maintaining information on and monitoring the status of civil monetary penalties is essential for ensuring that all debts resulting from fines and forfeitures are collected in an efficient and effective manner. Failure to effectively manage civil monetary penalties may result in loss of revenue for the federal government and may undermine the overall effectiveness of Commission enforcement efforts.

On March 24, 2000, we provided a draft report to the Managing Director, General Counsel, and each Bureau Chief summarizing the results of our review and requesting their comments on the reported findings. In May 2000, the Commission re-convened the Civil Monetary Penalty Task

Force. The Civil Monetary Penalty Task Force is comprised of representatives from the Office of General Counsel, Office of Managing Director, Common Carrier Bureau, Enforcement Bureau, International Bureau, Mass Media Bureau, and Wireless Telecommunications Bureau. On July 28, 2000, the Civil Monetary Penalty Task Force provided a response to our Draft Audit Report. In their response, the Task Force indicated that they concurred with each of our recommendations and that they were in the process of implementing a plan of corrective action. A copy of the task force response is included as Appendix 2 to our audit report.

We would be happy to meet with you to discuss the results of this audit. If you have any questions, please contact me at 418-0476.

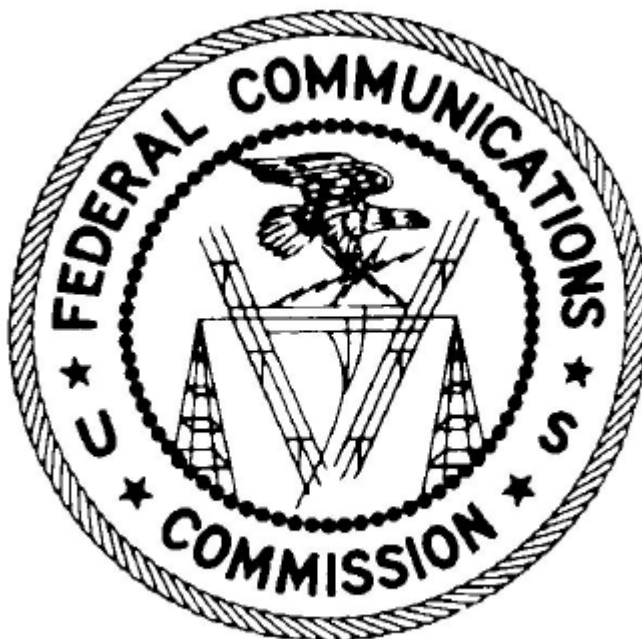
H. Walker Feaster III

Attachment

cc: Chief of Staff
Managing Director
General Counsel
Chief, Cable Services Bureau
Chief, Common Carrier Bureau
Chief, Enforcement Bureau
Chief, International Bureau
Chief, Mass Media Bureau
Chief, Wireless Telecommunications Bureau
Chief Financial Officer
Associate Managing Director, Performance Evaluation and Records Management

FEDERAL COMMUNICATIONS COMMISSION

OFFICE OF INSPECTOR GENERAL



Report on Audit of the Federal Communications Commission (FCC) Civil Monetary Penalty Program

Audit Report No. 00-AUD-01-05
August 1, 2000

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Inspector General

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Report on Audit of the Federal Communications Commission (FCC)
Civil Monetary Penalty Program

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EXECUTIVE DIGEST

The Communications Act of 1934 authorizes the Federal Communications Commission (FCC) to use civil monetary penalties as a means of enforcing Commission rules and regulations. The FCC can assess civil monetary penalties against those who violate Commission rules and regulations through either (1) an informal administrative process or (2) a formal evidentiary hearing. In the more commonly used administrative process, the Commission issues a Notice of Apparent Liability (NAL) which gives the charged party an opportunity to litigate the alleged violation and the proposed amount of the monetary penalty in a paper proceeding. Based on the pleadings submitted and the extenuating or aggravating circumstances presented, the Commission may then issue a Notice of Forfeiture (NOF), which sets the amount due. If the charged party refuses to pay the forfeiture, the Commission refers the matter to the Department of Justice for collection in district court where the charged party is entitled to a “trial de novo¹” as to both liability and amount of forfeiture. The Commission may also assess a penalty after issuing a notice and conducting a full evidentiary hearing before an administrative law judge. After exhausting its administrative remedies, the charged party is entitled to seek judicial review in the United States Court of Appeals. If the violator refuses to pay the forfeiture after the Commission’s decision has become final the Commission must ask the Department of Justice (DOJ) to initiate a collection action in federal district court. However, unlike the informal NAL/NOF paper process, the collection action here is on a debt that is due and payable to the government.

For the period from Fiscal Year (FY) 1995 through the second quarter of FY 1999², Commission records indicate that three hundred seventy-five (375) civil monetary penalty actions with a total dollar value of \$27,342,500 were initiated. For those transactions initiated during this period, the Commission reports collections totaling \$6,364,650 and some level of monetary collection on two hundred thirteen (213) of the three-hundred seventy-five (375) actions. During the period from October 1997 through May 7, 1999, the Commission’s Office of General Counsel (OGC) reports that fourteen (14) cases with a total dollar value of \$5,805,000 have been referred to the Department of Justice. OGC reports that an additional sixty-four (64) civil monetary penalty actions are being tracked in preparation for referral if matters are not resolved (e.g., corresponding with violator, held pending adjudication in another case, etc.).

The objective of this review was to determine if the Commission has established an effective program for managing civil monetary penalties. To conduct this review, we examined all aspects of the process by which the Commission manages civil monetary penalty actions. As a result of our audit, we determined that the Commission has not established an effective program for managing civil monetary penalty actions. Specifically, we determined that the information system used to track civil monetary penalty cases, the Fines and Forfeitures Tracking System (FFTS), does not accurately track and report the status of civil monetary penalty actions. As part of our audit, we

¹ In a “trial de novo” the merits of the case, including the validity of the underlying FCC order, would be at issue.

² The period from October 1, 1994 through March 31, 1999.

obtained copies of FFTS reports summarizing all Commission civil monetary penalty activity for which the system is tracking information. Using a combination of judgmental and statistical sampling techniques, we selected seventy (70) civil monetary penalty cases for detailed review. We then obtained copies of Bureau case files and case files maintained within the Credit and Debt Management Center (CDMC) and compared the source documents contained in those files to the information contained in FFTS to determine the accuracy of the information contained in the system. We identified a significant number of discrepancies between information contained in the FFTS and source documentation contained in Bureau and/or CDMC case files.

In addition to performing a detailed review of cases selected from the FFTS, we examined all cases reported in the FFTS as having been referred to Office of General Counsel or the Department of Justice. The objective of this testing was to determine if cases referred to the Department of Justice were being adjudicated in a timely fashion and if information about the resolution of these cases was accurately reported in the FFTS. To perform our testing, we attempted to trace cases to a report provided by OGC, entitled “Open Forfeiture Cases” and dated May 5, 1999, to determine case status. During the tracing process, we identified civil monetary penalty actions reported as having been referred to OGC and/or DOJ in FFTS for which we were unable to find any record in the “Open Forfeiture Cases” document. In addition, we identified civil monetary penalty actions reported in the “Open Forfeiture Cases” document that were not reported as having been referred to OGC and/or DOJ in the FFTS.

We identified several factors that contribute to the poor quality of data in the FFTS. These include:

- Lack of policies and procedures for monitoring the status of penalties and governing use of the FFTS to track forfeiture data.
- The CDMC is not updating the FFTS in a timely and accurate manner.
- Bureaus are not providing timely and accurate civil monetary penalty status information to the CDMC.
- Weaknesses exist in the structure of the FFTS.

An effective system for maintaining information on and monitoring the status of civil monetary penalties is essential for ensuring that all debts resulting from fines and forfeitures are collected in an efficient and effective manner. Failure to effectively manage civil monetary penalties may result in loss of revenue for the federal government and may undermine the overall effectiveness of Commission enforcement efforts. During our review, we examined the backlog of civil monetary penalty actions and concluded that, in many cases, the Commission has not processed civil monetary penalty actions in a timely fashion. We performed detailed reviews of cases reported in the FFTS as having been referred to OGC or DOJ and high dollar civil monetary penalty actions that exceed the statute of limitations³. In both of these analyses, we identified a significant number of unresolved actions in the FFTS for which the Commission has taken no action, or has no

³ As part of this test, we examined civil monetary penalty cases with a dollar value greater than \$10,000 that had no reported activity in the FFTS since September 30, 1995.

record of action being taken, for a period exceeding the statutory limitation of five (5) years⁴.

It should be noted that during the period this review was being conducted, several events took place that will likely improve the Commission's civil monetary penalty management program.

- First, on November 8, 1999, the Commission created two new Bureaus, the Enforcement Bureau and the Consumer Information Bureau, and consolidated most Commission enforcement activities within the Enforcement Bureau⁵. In part, this reorganization was conducted in recognition of the critical importance of enforcement as part of the Commission's transition from industry regulator to market facilitator. The press release announcing the reorganization notes that the change will "enhance the FCC's ability to serve the public by improving the effectiveness of the agency's enforcement program in an increasingly competitive communications marketplace."
- Secondly, on November 23, 1999, the Managing Director announced the adoption of new Procedures for Tracking NAL and Forfeiture Orders. These procedures, which became effective on December 1, 1999, were being circulated for comment during the period our review was being conducted.
- Thirdly, on August 31, 1999, the GAO issued a report entitled "TELECOMMUNICATIONS: FCC Does Not Know if All Required Fees Are Collected" [GAO/RCED-99-216]. The primary focus of this review was to examine the Commission's program to determine if the Commission collects all required regulatory and application fees. As part of the review, GAO examined data on civil monetary penalties assessed and collected during fiscal years 1997 and 1998. Following the examination of civil monetary penalty data, GAO auditors determined that the Commission did not have reliable data on penalty collections and concluded that "(w)ithout complete and accurate data, we could not reach any conclusions about the effectiveness of FCC's collection of civil monetary penalties." In their report, GAO recommended that the Commission "(c)onduct an audit of FCC's data on the status of civil monetary penalties to correct any data errors and internal control weaknesses that may have led to errors before incorporating these data into FCC's planned new financial system." The Commission concurred with this recommendation and stated that it will be made part of the "strategy to improve financial management over fee collections, tracking and reporting of receivables and collection of enforcement actions."

⁴ As part of the DOJ referral review process, the OGC reviews the case file to determine whether the statute of limitations in either 47 U.S.C § 503(b)(6) or 28 U.S.C. § 2462 has expired. As a practical matter, OGC will not refer a case to DOJ when more than five (5) years have passed since the date of the last Commission order.

⁵ Certain enforcement activities will remain in existing bureaus. For example, the Mass Media Bureau will have primary responsibility for children's television programming, political and related programming matters and equal opportunity matters and the Common Carrier Bureau will have primary responsibility for common carrier accounting and related requirements.

In May 2000, the Commission re-convened the Civil Monetary Penalty Task Force. The Civil Monetary Penalty Task Force is comprised of representatives from the Office of General Counsel, Office of Managing Director, Common Carrier Bureau, Enforcement Bureau, International Bureau, Mass Media Bureau, and Wireless Telecommunications Bureau. On July 28, 2000, the Civil Monetary Penalty Task Force provided a response to our Draft Audit Report. In their response, the Task Force indicated that they concurred with each of our recommendations and that they were in the process of implementing a plan of corrective action. Excerpts from the Civil Monetary Penalty Task Force response are incorporated under the appropriate audit recommendation. A copy of the entire response is included as Appendix 2 to this report.

AUDIT OBJECTIVE

The objective of this review was to determine if the Commission has established an effective program for managing civil monetary penalties. Specifically, the objectives of the review were to (1) determine if civil monetary penalty actions are accurately tracked and reported, (2) determine if civil monetary penalty case files adequately support reported actions, and (3) determine if actions were processed in a manner consistent with Commission procedures.

AUDIT SCOPE

The audit was conducted in accordance with Generally Accepted Government Auditing Standards, and included such analysis, interviews and testing as required to support the audit findings.

The scope of this audit included all aspects of Commission management of civil monetary penalties. The review examined all phases of the program from notification of violation through the collection of fines. In addition, the review included an examination of cases referred to the Department of Justice. As part of the review, we:

- Conducted research to obtain a complete understanding of the civil monetary penalty management process. The scope of this research included all phases of the civil monetary penalty lifecycle including the management of actions referred to the Department of Justice.
- Performed a detailed assessment of civil monetary penalty case files. This assessment included an examination of records maintained by those organizations initiating the actions and the Credit and Debt Management Center (CDMC) for managing the collection process.
- Conducted a detailed analysis of the “backlog” of civil monetary penalty actions. This analysis included an examination of all high-dollar (those greater than \$10,000) civil monetary penalty actions initiated prior to FY 1995 that have not been resolved according to CDMC records.
- Conducted a detailed analysis of all civil monetary penalty actions reported by CDMC records as having been referred to OGC or to the Department of Justice.

Audit fieldwork was performed within the Office of the Managing Director, Common Carrier Bureau, Compliance and Information Bureau, International Bureau, Mass Media Bureau, Office of General Counsel, and Wireless Telecommunications Bureau from April 1999 through December 1999.

BACKGROUND

Civil monetary penalties represent one of the primary means by which the Federal Communications Commission (FCC) enforces compliance with Commission rules and regulations. The Communications Act of 1934, under which the Commission was created, establishes the authority by which the Commission assesses civil monetary penalties. Title V of the Communications Act of 1934, hereinafter referred to as “the Act”, establishes provisions for assessing fines and forfeiting communications equipment for violation of Commission rules and regulations. The Commission’s guidelines for assessing civil monetary penalties are contained in Section 1.80 of the Commission’s Rules [47 CFR § 1.80] entitled “Forfeiture proceedings.” Sections 503 and 504 of the Communications Act, 47 U.S.C. § 503, 504 authorize the FCC to follow either of two courses in assessing and collecting forfeitures. The usual course is for the Commission to issue a Notice of Apparent Liability (NAL), which gives the charged party an opportunity to litigate the alleged violation and the tentative amount of the forfeiture in a paper proceeding. Based on the pleadings submitted and the extenuating or aggravating circumstances presented, the Commission may then issue a Notice of Forfeiture (NOF), which sets the amount due. If the charged party refuses to pay the forfeiture, the Commission must ask the Department of Justice to institute a civil suit in federal district court where the charged party is entitled to a “trial de novo” as to both liability and amount of forfeiture.

As an option to pursuing the informal NAL/NOF paper proceeding, the Commission may designate the matter for a hearing before an Administrative Law Judge (ALJ), who tries the issues of liability and amount of forfeiture. After exhausting its administrative remedies, the charged party is entitled to seek judicial review in the United States Court of Appeals. If the violator refuses to pay the forfeiture after the Commission’s decision has become final, the Commission must ask the Department of Justice to initiate a collection action in federal district court. However, unlike the informal NAL/NOF paper process, the collection action here is on a debt that is due and payable to the government.

For the period from Fiscal Year (FY) 1995 through the second quarter of FY 1999⁶, Commission records indicate that three hundred seventy-five (375) civil monetary penalty actions with a total dollar value of \$27,342,500 were initiated. For those transactions initiated during this period, the Commission reports collections totaling \$6,364,650 and some level of monetary collection on two hundred thirteen (213) of the three hundred seventy-five (375) actions. The Commission’s Office of General Counsel (OGC) reports that, from the period of October 1997 through May 7, 1999, fourteen (14) cases with a total dollar value of \$5,805,000 had been referred to the Department of Justice and an additional sixty-four (64) civil monetary penalty actions are being tracked.

It should be noted that during the period this review was being conducted, several events took place that will likely improve the Commission’s civil monetary penalty management program. First, on November 8, 1999, the Commission created two new Bureaus, the Enforcement Bureau and the Consumer Information Bureau, and consolidated most

⁶ This represents the period from October 1, 1994 through March 31, 1999.

Commission enforcement activities within the Enforcement Bureau⁷. In part, this reorganization was conducted in recognition of the critical importance of enforcement as part of the Commission's transition from industry regulator to market facilitator. The press release announcing the reorganization notes that the change will "enhance the FCC's ability to serve the public by improving the effectiveness of the agency's enforcement program in an increasingly competitive communications marketplace." Secondly, on November 23, 1999, the Managing Director announced the adoption of new Procedures for Tracking NAL and Forfeiture Orders. These procedures, which became effective on December 1, 1999, were being circulated for comment during the period our review was being conducted.

In addition to internal efforts to improve management of enforcement actions, the General Accounting Office (GAO) examined the Commission's fee collection program. On August 31, 1999, the GAO issued a report entitled "TELECOMMUNICATIONS: FCC Does Not Know if All Required Fees Are Collected" [GAO/RCED-99-216].⁷ The primary focus of this review was to examine the Commission's program to determine if the Commission collects all required regulatory and application fees. As part of the review, GAO examined data on civil monetary penalties assessed and collected during fiscal years 1997 and 1998. Following the examination of civil monetary penalty data, GAO auditors determined that the Commission did not have reliable data on penalty collections and concluded that "(w)ithout complete and accurate data, we could not reach any conclusions about the effectiveness of FCC's collection of civil monetary penalties." In their report, GAO recommended that the Commission "(c)onduct an audit of FCC's data on the status of civil monetary penalties to correct any data errors and internal control weaknesses that may have led to errors before incorporating these data into FCC's planned new financial system." The Commission concurred with this recommendation and stated that it will be made part of the "strategy to improve financial management over fee collections, tracking and reporting of receivables and collection of enforcement actions."

⁷ Certain enforcement activities will remain in existing bureaus. For example, the Mass Media Bureau will have primary responsibility for children's television programming, political and related programming matters and equal opportunity matters and the Common Carrier Bureau will have primary responsibility for common carrier accounting and related requirements.

Finding - The Fines and Forfeitures Tracking System (FFTS) does not accurately track and report the status of civil monetary penalty actions.

The Credit and Debt Management Center (CDMC), within the Commission’s Office of Managing Director (OMD), uses an information system called the Fines and Forfeitures Tracking System (FFTS) to track the status of civil monetary penalty actions. Each month an FFTS report is prepared summarizing civil monetary penalty information for each Bureau. A copy of each monthly report, entitled “Forfeiture Tracking System Aged Receivables”, is forwarded to each Bureau for review. The Bureaus are instructed to review the report, annotate the report to indicate changes, and return the report to CDMC. In addition, Bureaus are instructed to provide documentation to CDMC when the status of a civil monetary penalty changes. CDMC is responsible for updating the FFTS to reflect changes indicated on the returned “Forfeiture Tracking System Aged Receivables” reports and other documents provided by the Bureaus. As a result of our audit, we determined that the Fines and Forfeitures Tracking System (FFTS), does not accurately track and report the status of civil monetary penalty actions.

As part of our audit, we obtained copies of FFTS reports summarizing all Commission civil monetary penalty activity for which the system is tracking information. Using a combination of judgmental and statistical sampling techniques, we selected seventy (70) civil monetary penalty cases for detailed review. The objective of our testing was to determine if information contained in the FFTS was adequately supported by source documents and to determine if information contained in CDMC case files was supported by Bureau case files. We then obtained copies of Bureau case files and case files maintained by CDMC and compared the source documents contained in those files to the information contained in FFTS to determine the accuracy of the information contained in the system. We identified a significant number of discrepancies between information contained in the FFTS and source documentation contained in Bureau and/or CDMC case files. For example, we identified the following discrepancies:

- In thirteen (13) out of the seventy (70) civil monetary actions selected for detailed review we identified differences between the “Billings and Collections Number⁸” used to record the transaction in the FFTS and the number on supporting documents. The accurate use of this number is critical in tracking a civil monetary penalty action because it is, in many cases, the single unique reference number.
- In thirty-four (34) out of the seventy (70) actions selected for detailed review we determined that the information in the FFTS was not accurate based on our examination of source documents contained in the Bureau and/or CDMC case files. Most frequently, we would identify documentation relating to the litigation of alleged violation and proposed forfeiture (e.g., Petition for Reconsideration, Request for Mitigation, etc.) that would not be reflected in the FFTS. However,

⁸ The Billings and Collections Number is the primary account number used to record the action in the Fines and Forfeitures Tracking System. During our review, we identified instances in which this number was also referred to as the “P.O. Number” and the “NAL/Acct. No.”

in several cases we identified instances in which the FFTS did not accurately record Notices of Forfeiture associated with civil monetary penalty actions. In one case, the FFTS did not report a consent decree effectively closing the forfeiture action.

In addition to performing a detailed review of cases selected from the FFTS, we examined all cases reported in the FFTS as having been referred to the Office of General Counsel (OGC) or the Department of Justice (DOJ). The objective of this testing was to determine if cases referred to the Department of Justice were being adjudicated in a timely fashion and if information about the resolution of these cases was accurately reported in the FFTS. To perform our testing, we identified all cases in the FFTS for which the last reported action was referral to Office of General Counsel (FFTS transaction code: OGC) or referral to the Department of Justice (FFTS transaction code: DOJ). We then attempted to trace cases to a report provided by OGC, entitled “Open Forfeiture Cases” and dated May 5, 1999, to determine case status. During the tracing process, we identified the following conditions:

- Civil monetary penalty actions reported as having been referred to OGC and/or DOJ in FFTS for which we were unable to find any record in the “Open Forfeiture Cases” document.
- Civil monetary penalty actions reported in the “Open Forfeiture Cases” document that were not reported as having been referred to OGC and/or DOJ in the FFTS.

Based upon the conditions identified, we developed a spreadsheet listing of all referred cases and asked OGC to research those cases and provide an accurate status of each case. Of the ninety (90) civil monetary penalty cases for which the last reported action in the FFTS was referral to OGC or referral to DOJ, OGC performed research and reported the following results:

- Twenty-seven (27) cases have been closed as a result of a court judgment, DOJ declination, payment, or business closure (representing thirty percent (30%) of the referred cases). Many of these are cases that have been resolved for several years for which the FFTS has not been updated.
- OGC reported that they have “No Record” of twenty-seven (27) of the ninety (90) cases reported in the FFTS as having been referred (representing thirty percent (30%) of the referred cases). Many of these are cases that were initiated in FY 1991 or before and remain unresolved.
- Eleven (11) cases are reported as “pending”.
- Eight (8) cases are on hold pending court decision on another case.

Several Factors Have Contributed To The Weaknesses Identified In The Commission's Fines and Forfeitures Tracking System (FFTS).

Our audit disclosed several factors that contribute to the inaccuracies in the FFTS. Together, these issues result in erroneous data and deficiencies in civil monetary penalty management.

- The Commission did not have adequate policies and procedures for monitoring the status of penalties and governing use of the FFTS to track forfeiture data during the period that fieldwork was performed on this audit. The Commission policy governing forfeiture tracking, FCC Directive 1157.1 entitled “Forfeiture Tracking, Collections and Follow-Up System”, was effective from April 1, 1992 through March 31, 1995. In addition, the Directive assumed that “a centralized, automated NAL/Forfeiture tracking system will be in place when this Directive is issued.” This centralized system was never implemented. Instead, interim instructions provided in the Directive governed management of forfeiture tracking.
- The organization responsible for maintaining and updating the FFTS, the Credit Management Data Center (CMDC), is not updating the FFTS in a timely and accurate fashion. We identified several cases in which information contained in CDMC case files was not accurately reflected in the FFTS.
- Bureaus are not providing timely and accurate civil monetary penalty status information to the CDMC. We identified numerous cases in which information contained in Bureau civil monetary penalty case files did not agree with files maintained by the CDMC. This condition appears to be caused, at least in part, by a lack of uniform requirements for documentation that should be included in a case file.
- The FFTS does not provide meaningful, user friendly information on the status of civil monetary penalty actions. For example, the system reporting mechanism does not produce a report that identifies only open actions for a given fiscal year. Therefore, the user must review each reported item for a given fiscal year to identify open items. Further, the system employs a series of codes to describe the various actions that occur in the lifecycle of a civil monetary penalty action (e.g., Notice of Apparent Liability, Notice of Forfeiture, etc.). In our opinion, these codes are difficult to interpret and subject to misinterpretation. See Appendix 1 for a listing of the data elements used in FFTS.
- The Commission has not established uniform standards for case file composition. As a result, case file composition has been left to the discretion of the Bureaus and Offices initiating civil monetary penalty actions. The resulting differences in content and format makes comparisons, follow up efforts, and tracking more difficult.

- As a result of the errors in the data and the difficulty in working with the FFTS, many users and managers have lost confidence in FFTS information. This has led to the development of “home-grown” systems used by Bureaus and Offices to track civil monetary penalties, which also degrades the efficient and effective management of the program.

Effective Regulatory Enforcement Requires Timely Collection of Monetary Penalties.

One of the Commission’s most important mission functions is to ensure compliance with its rules and regulations. Violation of Commission rules can disrupt the orderly provision of telecommunication services and compromise public safety. The authority to assess civil monetary penalties against those who violate Commission regulations is a critical enforcement tool. Failure to effectively manage civil monetary penalties may result in loss of revenue for the federal government and may undermine the overall effectiveness of Commission enforcement efforts.

In addition to its importance from a mission standpoint, timely collection of civil monetary penalties is a fiscal responsibility. Office of Management and Budget (OMB) Circular No. A-129, entitled “Policies for Federal Credit Programs and Non-Tax Receivables”, establishes policies for managing Credit Programs and Federal Government receivables. Section IV. of the Circular, entitled “Managing The Federal Governments Receivables”, states that “(t)he Government must service and collect debts, including defaulted guaranteed loans acquired by the Government, in a manner that best protects the value of the Government’s assets.” In addition the Circular states that “(m)echanisms must be in place to collect and record payments and provide accounting and management information for effective stewardship.”

Inadequate Information on Civil Monetary Penalties Results in Decreased Effectiveness of Commission Enforcement and Revenue.

To effectively manage civil monetary penalty actions, Commission management requires timely and accurate information about each action. In addition, current, accurate, and complete case information is required for civil monetary penalty cases that are referred to the Department of Justice for adjudication. Civil monetary penalties are a critical component of the Commission’s enforcement program. The inability to maintain good information on the status and results of civil monetary penalty actions erodes the Commission’s ability to enforce regulations.

The extensive backlog of high dollar actions and cases that have been closed due to exceeding the statute of limitations represents a loss of revenue collections. Without complete, timely, and reliable information, Commission management may fail to pursue cases in a timely manner, may use resources ineffectively, and may ultimately fail to collect revenues duly owed the federal government.

Recommendations

As indicated previously in this report, several events took place during the period that this review was being conducted that will likely improve the Commission's civil monetary penalty management program. We have indicated that those cases where we believe those specific actions being taken may address the stated recommendation.

Recommendation 1 of 3

The Commission should conduct a comprehensive review of information reported in the FFTS and address erroneous and inconsistent data. This review should include the participation of all affected Commission Bureaus and Offices, the Office of Managing Director, and the Office of general Counsel. To ensure this clean-up effort is performed efficiently, we suggest that one office be designated as lead for ensuring that the appropriate staff reviews all records and corrections are initiated.

Management Response

The Civil Monetary Penalty Task Force concurred with the recommendation and stated that they contracted with Ernst and Young to "perform a comprehensive review of the information reported in the existing system before data conversion to the new Revenue Accounting and Management Information System (RAMIS)."

Recommendation 2 of 3

The Commission issued new procedures for tracking civil monetary penalties on November 23, 1999. We recommend that the Commission take steps to ensure that these procedures were properly implemented and are being enforced. In addition, we recommend that the Commission establish a quarterly FFTS review and certification process. The process should include quarterly meetings between the CDMC and Bureaus to review the accuracy of FFTS information and certification of accuracy by the Bureau Chief following the review.

Management Response

The Civil Monetary Penalty Task Force concurred with the recommendation and stated that they have initiated a review of the recently implemented procedures.

Recommendation 3 of 3

The Commission should establish standards for civil monetary penalty case files. These standards should address both content and organization of documents. We also suggest that these standards be coordinated with the Department of Justice, to ensure that the documentation we are maintaining supports their needs for administrative and legal proceedings.

Management Response

The Civil Monetary Penalty Task Force concurred with the recommendation and agreed to establish standards for civil monetary penalty case files. Further, the Task Force reported that they have tasked Ernst and Young with providing recommendations on the standards for the civil monetary penalty case files.

Fines and Forfeitures Tracking System (FFTS) Data Elements

The Fines and Forfeitures Tracking System (FFTS) is a standalone PC-based system using Peachtree Accounting software that is intended to track all relevant information about each civil monetary penalty action. The System includes the following information about each civil monetary penalty action.

- Violator’s Name and Address
- FCC Official initiating the forfeiture action
- Outstanding Balance
- Aging Information
- Date, Amount, and Type of Transaction

In addition, the system employs a series of codes to describe the various actions that occur in the lifecycle of a civil monetary penalty action (e.g., Notice of Apparent Liability, Notice of Forfeiture, etc.). The types of transactions (and corresponding tracking system notation) include:

Transaction	Transaction Code
Notice of Apparent Liability Issued	NAL
Notice of Forfeiture Issued	NOF
Collection Action Suspended	SUS
Suspension Cancelled – Resume Collection	CSU
Referred to Office of General Counsel	OGC
Referred to Department of Justice	DOJ
1 st Dunning Letter Issued	DL1
2 nd Dunning Letter Issued	DL2
3 rd Dunning Letter Issued	DL3
Debt Written Off	WRT
Bankruptcy	BNK
Account Cancelled	CAN
Account was Mitigated	MIT
Petition/Request for Reconsideration/Review Received	RFC
Petition/Request for Mitigation Received	RFM
Refund	REF
Closed	CLS
Paid in Full	PDF
Partial Payment	PAR
Installment Agreement	INS
Bad Check	BCK
Collected by DOJ	COJ