



DEBT COLLECTION POLICY

ACCOUNTS RECEIVABLES

CONTENT

Policy is to ensure all funds invoiced by the Bureau are collected in a timely, efficient, effective and fair manner.

ENACTMENT DATE

April 3rd, 2017

DEBT COLLECTION POLICY

1. INTRODUCTION AND CONTEXT

- 1.1 In accordance to the National Ordinance Bureau Telecommunication and Post (A.B. 2013, GT no. 466) the Bureau is a public legal entity (art. 2.2). The Bureau is autonomous with regards to its internal organization, management of its resources and in safeguarding its interests (art. 2.3). The tasks of the Bureau are outlined in article 5 of the ordinance.
- 1.2 In accordance to the Mandate Regulation BTP 2015 (M.B. 2015/1120) the Director of the Bureau is mandated to carry out all activities related to the collection, management and administrative accountability of fees obtained from the telecommunications, broadcasting, postal and courier sector (art. 2a.18 and 2b.2).
- 1.3 In accordance with the National Ordinance Bureau Telecommunicate and Post and the Mandate Regulation BTP 2015 the Director is authorized to establish and implement internal and external policy to carry out the various tasks and responsibilities of the Bureau. The policy is established after consultation with the Board.
- 1.4 The objective of this Policy is to ensure all funds invoiced by the Bureau are collected in a timely, efficient, effective and fair manner that is in accordance with internal procedures.
- 1.5 This Policy is applicable on all services and products invoiced by the Bureau as outlined in the applicable telecommunication and post legislation, as well as for services and products invoiced based on the tasks entrusted to the Bureau in accordance with the National Ordinance Bureau Telecommunication and Post (art. 5).
- 1.6 This Policy is linked to, refers to and/or is aligned with the following legislation and internal procedures:
 - a. Ordinance on Administration Law (LAR - A.B. 2010, GT no. 30)
 - b. National Ordinance on Telecommunications (A.B. 2013, GT no. 769) and related National Decree
 - c. Postal National Ordinance (A.B. 2013, GT no. 391)
 - d. Internal Procedure – Collect Overdue Fees
- 1.7 This Policy was established by the Director on February 7th, 2017, enacted by the Bureau on April 3rd, 2017, after consultation with the Board on January 24th, 2017 and communicated to the Minister on March 29th, 2017.

- 1.8 This Policy is published on the website on the Bureau (www.sxmregulator.sx). All entities and persons invoiced by the Bureau have been informed of the enactment of a new debt collection policy 30 days before its enactment and have been advised to read the policy on the website.
- 1.9 In this policy the following definitions for the terms listed are applied:
- a. Bureau : Bureau Telecommunication and Post St. Maarten.
 - b. Policy : Debt Collection Policy of the Bureau.
 - c. Minister : the Minister of Tourism, Economic Affairs, Telecommunication and Traffic.
 - d. Director : the Director of the Bureau.
 - e. Board : the Supervisory Board of the Bureau.
 - f. CFO : the Chief Financial Officer of the Bureau.
 - g. Invoice date : the date that an invoice is validated in the financial administration of the Bureau.
 - h. Due date : the date by which the payment of the amount stated on the invoice issued by the Bureau should be received by the Bureau.
 - i. Debt : the amount of funds as stated on the invoice and/or summons issued by the Bureau owed by the Debtor to the Bureau.
 - j. Debtor : an organization, entity or individual to which an invoice and/or summons has been issued by the Bureau that owes the amount of funds as stated in the invoice and/or summons to the Bureau.
 - k. Administrative Sanction Fee : a fee added to the debt by the Bureau for not receiving payment for the amount due by the due date stated on the invoice and/or summons issued by the Bureau.
 - l. Doubtful Debt : Debt that may become uncollectible.
 - m. Provision : an accounting term for a reservation for doubtful debt that may be written off.
 - n. Collection Agency : a business or other entity that specializes in debt collection engaged by the Bureau to collect debt on their behalf.
 - o. Write off: an accounting term for cancelling a debt that is uncollectible.

2. INVOICING AND PAYMENT

- 2.1 Invoices are issued by the Bureau in accordance with the applicable telecommunication and post legislation, the terms of the concessions, licenses, approvals and frequencies assignments issued, and/or as otherwise contractually agreed.
- 2.2 The following details will, at least, be listed in the invoice:
- a. Name, address and contact information of the Bureau

- b. Payment information of the Bureau
 - c. Name and address of the Debtor
 - d. Invoice Date
 - e. Unique invoice number
 - f. Billing Year
 - g. Due Date
 - h. Description of service or product invoiced
 - i. Invoice total amount (US\$)
 - j. Exchange rate from US\$ to NAf
 - k. Notice of the addition of fee if payment is not received by the Bureau by the due date
 - l. Notice of the objection procedure in accordance to the Ordinance of Administrative Law
- 2.3 Payment of the invoice amount must be received by the Bureau by the due date noted on the invoice.
- 2.4 A Debtor may request a payment arrangement for the invoice amount. This request must be received by the Bureau by the due date noted on the invoice. This request must be directed to the Director. Payment arrangements will be determined on a case by case basis based on an evaluation of the reason for the request, the amount due and the payment history of the Debtor.
- 2.5 Overpayment on an invoice received by the Bureau can be administrated as a credit to the Debtor and may be applied to future invoices. The Bureau shall refund an overpayment to the Debtor on his/her or its request.
- 2.6 In accordance with the Ordinance of Administrative Law, objections to invoices must be addressed and received by the Minister within 6 weeks of the date was given. The date the invoice is given is considered as the date the invoice was sent or delivered to the respective party. The Minister will issue a decision on the objection, after hearing the party that objected to the decision, within a period of four (4) months of the date the objection was submitted.

3. DEBT RECOVERY PROCESS BY THE BUREAU

- 3.1 Payment or request for payment arrangement not received by the Bureau by the due date are considered outstanding and will merit debt recovery actions by the Bureau.
- 3.2 If payment is not received by the Bureau by the due date, the Bureau will issue a 1st summons letter indicating that the invoice is overdue and kindly requesting payment within 10 business days. The related due date will be stated in the summons letter.

- 3.3 An administrative sanction fee of 1.5% per month of the invoice total amount will be added. The revised amount due, including the administrative sanction fee, will be stated in the 1st summons letter.
- 3.4 If payment is not received by the Bureau by the due date noted in the 1st summons letter, the Bureau will issue a 2nd summons letter indicating that the invoice is still overdue and urgently requesting payment within 10 business days. The related due date will be stated in the summons letter.
- 3.5 An administrative sanction fee of 1.5% per month of the revised amount due noted in the 1st summons letter will be added. The revised amount due, including the administrative sanction fee, will be stated in the 2nd summons letter.
- 3.6 If payment is not received by the Bureau by the due date noted in the 2nd summons letter, the recovery of the amount due will be transferred to a Collection Agency for further handling. All costs associated with the recovery of debt by the Collection Agency will be charged to the Debtor. This amount will not exceed 15% of the total amount due. This will be stated in 2nd summons letter.
- 3.7 A Debtor may still request a payment arrangement for the amount due. This request must be received by the Bureau by the due date noted on the summons letter. This request must be directed to the Director. Payment arrangements will be determined on a case by case basis based on an evaluation of the reason for the request, the amount due and the payment history of the debtor.

4. DEBT RECOVERY PROCESS BY THE COLLECTION AGENCY

- 4.1 Once the Debt has been transferred to the Collection Agency all correspondence, payment and arrangements will be done through the Collection Agency.
- 4.2 The general debt recovery activities of the Collection Agency have been agreed upon with the Bureau. The Collections Agency will act on behalf of the Bureau in accordance with the agreed upon terms and conditions. The Collection Agency will be (legally) responsible for debt recovery activities performed not in accordance with the agreed upon terms and conditions.
- 4.3 The Collection Agency will notify the Debtor of the transfer of the recovery of the debt to them through a summons letter within 10 business days. The terms of their recovery activities will be outlined in the summons.

- 4.4 The Collection Agency will submit a report per account on the status of the debt and the debt recovery activities performed to the Bureau on the agreed upon period, using the agreed upon format.
- 4.5 The Collection Agency shall transfer all debt payments received to the Bureau within the agreed upon term.
- 4.6 If notice of court litigation by the Debtor has been received, the Bureau shall notify the Collection Agency and all debt recovery activities shall be suspended. The Collection Agency shall submit a closing report to the Bureau, in the agreed upon format, within 10 business days, or an earlier agreed upon date.
- 4.7 If after 60 business days the Collection Agency has not made contact with the Debtor, received (partial) payment of Debt or made a payment arrangement with the Debtor, the account will be closed by the Collection Agency and transferred back to the Bureau. The Collection Agency shall submit a closing report to the Bureau, in the agreed upon format, within 10 business days, or an earlier agreed upon date.

5. COURT LITIGATION INITIATED BY THE DEBTOR

- 5.1 A Debtor can initiate a court litigation to appeal the decision on an objection issued by the Bureau or to contest an invoice and/or summons letters issued by the Bureau or issued by the Collection Agency on behalf of the Bureau.
- 5.2 In accordance with the National Ordinance Bureau Telecommunication and Post, article 2.3, and the Mandate Regulation BTP 2015, article 2a.18 and 2b.2, the Bureau is mandated to handle court litigation initiated by the Debtor concerning matters outlined in article 2.1 of this Policy.
- 5.3 The Bureau shall notify their legal counsel of the notice of the court litigation initiated by the Debtor in a timely manner.
- 5.4 The Bureau or the Collection Agency shall suspend all debt recovery activities related to the court litigation once notice of the court litigation has been received by the Bureau.
- 5.5 In preparation of the court hearing the Bureau shall compile a dossier consisting of, at least, the concessions, licenses, approvals and/or frequencies assignments issued, the statement of invoices issued indicating those paid and outstanding, the summons letters issued by the Bureau and the Collection Agency. This dossier shall be submitted to the Bureau's legal counsel in a timely manner.

- 5.6 The judgment of the court hearing shall be submitted to the Bureau by their legal counsel in a timely manner, at most within 5 business days of the date of the judgment.
- 5.7 The Bureau shall execute the instructions of the judgment accordingly within 15 business days of judgment, or by the date indicated in the judgement.
- 5.8 The Director shall periodically inform the Board and the Minister of the court litigations initiated by Debtors concerning invoices issued by the Bureau and the collection of the related Debt.

6. COURT LITIGATION INITIATED BY THE BUREAU

- 6.1 In accordance with the National Ordinance Bureau Telecommunication and Post, article 2.3, and the Mandate Regulation BTP 2015, article 2a.18 and 2b.2, the Bureau is mandated to handle court litigation initiated by the Bureau concerning matters outlined in article 2.1 of this Policy.
- 6.2 When debt recovery activities by the Bureau and the Collection Agency have been unsuccessful, the Bureau can opt to initiate court litigation against the Debtor to recoup the debt. This decision is made by the Director on the recommendation of the CFO on a case by case basis.
- 6.3 The Bureau shall notify their legal counsel of the desire to initiate court litigation against the Debtor in a timely manner. The legal counsel shall advise the Bureau on the legal actions to be undertaken on behalf of the Bureau. Final approval is required by the Director on the agreed upon legal action to be undertaken by the legal counsel.
- 6.4 In preparation of the court hearing the Bureau shall compile a dossier consisting of, at least, the concessions, licenses, approvals and/or frequencies assignments issued, the statement of invoices issued indicating those paid and outstanding, the summons letters issued by the Bureau and the Collection Agency. This dossier shall be submitted to the Bureau's legal counsel in a timely manner.
- 6.5 The judgment of the court hearing shall be submitted to the Bureau by their legal counsel in a timely manner, at most within 5 business days of the date of the judgment.
- 6.5 The Bureau shall execute the instructions of the judgment accordingly within 15 business days of judgment, or by the date indicated in the judgement.
- 6.7 The Director shall periodically inform the Board and the Minister of the court litigations initiated by the Bureau concerning invoices issued by the Bureau and the collection of the related Debt.

7. COLLECTION CONCERNING COURT APPROVED BANKRUPTCY OR STAY OF PAYMENT

- 7.1 The Bureau or the Collection Agency shall cease all debt recovery activities in the event of a court approved bankruptcy or stay of payment has been issued and received by the Bureau.
- 7.2 If applicable, the Collection Agency shall close the account and transfer it back to the Bureau. The Collection Agency shall submit a closing report to the Bureau, in the agreed upon format, within 10 business days, or an earlier agreed upon date.
- 7.3 The Bureau shall prepare a dossier of, at least, an overview of all debt including accrued administrative sanction fees and Collection Agency costs, all other relevant information concerning the account, and the invoices and summons letters issued. The Bureau shall submit the dossier to their legal counsel in a timely manner. The Bureau's legal counsel shall submit the claim to the appointed trustee in a timely manner.
- 7.4 Collection of debt shall be executed in accordance with the court approved divisions and disbursements of confirmed claims, or stay of payment instructions. The collection activities should be executed by the legal counsel within 15 business days of the court judgement, or by the date indicated in the judgement.
- 7.5 Any debt not included in the court approved divisions and disbursements of confirmed claims, or stay of payment instructions, shall be written-off by the Bureau.
- 7.6 The Director shall periodically inform the Board and the Minister of debt concerning court approved bankruptcy or stay of payment.

8. DOUBTFUL DEBT AND PROVISIONS

- 8.1 The Bureau shall establish a Provision for doubtful debt in a timely manner.
- 8.2 The Provision shall be established at the end of each year based on a supported evaluation performed by the CFO.
- 8.3 The Provision shall be set per debt-aging bracket that is reflective of the collection process outlined in article 3 and 4 of this Policy.
- 8.4 The Provision percentage (%) per debt-aging bracket shall be determined by historical data based on an analysis of payment history performed by the CFO.
- 8.5 The debt population shall be divided into two categories:
- a. Significant debt balances, and

- b. Non-significant debt balances.
- 8.6 For the Significant debt balance the Provision shall be established on an individual basis (i.e. per industry, per account), based on the relevant debt-aging bracket.
- 8.7 For the Non-significant debt balances, a general provision can be established, based on the relevant debt-aging brackets.

9. DEBT WRITE-OFF

- 9.1 The Bureau shall establish if a debt is considered uncollectible in a timely manner.
- 9.2 Debt on an account is considered uncollectible in the event of the following:
- a. the Debtor has left the territory with no known forwarding location and collection activities cannot be undertaken,
 - b. if the debt is time barred; the statute of limitations for periodic claims is five (5) years,
 - c. if no legal basis exists for collection of the account,
 - d. if the Debtor has been declared bankrupt by the court, and/or
 - e. if a court judgement indicates such.
- 9.3 The Bureau shall undertake actions to write-off debt that is considered uncollectible annually.
- 9.4 The CFO shall make a recommendation of debts to write-off, supported by valid reasons, to the Director for authorization. The underlying reason should be aligned with one or more of the reasons outlined in article 9.2 of this Policy. The Director shall make a decision on debt to write-off.
- 9.5 The Bureau shall use the provision for doubtful debt method to write-off debt.
- 9.6 The Director shall inform the Board and the Minister of the debt written-off and the reason therefore annually.

10. MONITORING THE POLICY

- 10.1 The Bureau shall review the effectiveness and legislative alignment of this Policy periodically.
- 10.2 The CFO will report the outcome of the periodic review of the Policy to the Director and make recommendations for amendments or an enactment of a new Policy if considered necessary.

- 10.3 Amendments to this Policy shall be executed by the Director, after consultation with the Board and communication to the Minister. The amended Policy will be published accordingly on the Bureau's website (www.sxmregulator.sx)
- 10.4 It is the Debtor's responsibility to remain abreast of the amendments to this Policy by regularly referring to the Policy on the Bureau's website.