

<b>FEDERAL COMMUNICATIONS COMMISSION</b> Washington, D.C. 20554  <b>FCC DIRECTIVE</b>	<b>TITLE</b>	
	<b>Monitoring and Recording of Wire, Oral, and Electronic Communications</b>	
	<b>Directive Number:</b>  <b>FCCINST 1137.4</b>	<b>Effective Date:</b>  <b>December 2024</b>

1. PURPOSE: Pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i) (“Act”), this directive prescribes the policy applicable to the practice of monitoring or recording of telephone conversations, similar audio and/or video communications, and in-person oral communications, by Commission personnel. This directive does not apply to calls made by members of the public to phone numbers openly advertised as ways to contact the FCC, including but not limited to the FCC call center, the emergency operations center, and technical support; any recording of such incoming calls should be discussed with the Office of General Counsel.
2. CANCELLATION: This instruction supersedes FCCINST 1137.3, FCC Directives System, “Monitoring and Recording of Telephone Conversations” dated September 14, 2018.
3. SCOPE: This directive applies to all Commission personnel.
4. BACKGROUND: Numerous federal and state laws govern the interception of telephone and other communications, including wire, oral, and electronic communications. The term “interception” is broadly defined and encompasses both the monitoring and recording of such communications. While some laws permit interception when only one party to the conversation consents, all laws permit interception when all parties to the conversation consent.
5. DEFINITION: As used hereafter, the term “interception” means the aural or other acquisition of the contents of any telephone, oral, audio, or video conversations, including conversations held using a microphone, webcam, or similar device over the internet.
6. POLICY: No communication shall be intercepted by any Commission personnel unless one of the following exceptions applies:
  - A. Notice and Consent: Interception is permissible where the intercepted communication will substantially contribute to the effective conduct of official business and—
    - (1) All parties participating in the conversation have been informed at its outset that it will be monitored, transcribed, intercepted, or recorded, and they have consented to such actions prior to the conversation either orally or in writing, regardless of the purpose for which it is being recorded; or
    - (2) With regard to public meetings, conferences, or other proceedings, notice is considered sufficient and consent may be assumed if notice was included either: (i) in the public notice initially announcing the forum, or (ii) on the Commission’s website,

as part of the instructions on how individuals may participate or listen remotely to the public meeting, conference, or other proceeding.

- B. OGC Approval: Interception is permissible with prior written approval of the Office of General Counsel. In the case of an interception of an oral (i.e. in-person) communication, approval by the General Counsel may be provided after the interception has occurred but before the information acquired in the interception is used or processed. If such approval is not provided, any recording must be destroyed consistent with applicable records-retention requirements.
- C. OIG Interception: Interception is permissible when conducted or authorized by the Inspector General.
- D. Unencrypted Radio Interception: Interception of radio communications transmitted without encryption is permissible, where such interception is made in connection with enforcing the Act or the Commission's rules and within the scope of the FCC personnel's duties.
- E. Licensed Encrypted Radio Interception: Interception of licensed encrypted radio communications is permissible with the express permission of, and decryption by, the licensee, in connection with an investigation under the Act or the Commission's rules into unauthorized use of the licensee's spectrum-usage rights, and within the scope of the FCC personnel's duties.

7. RESPONSIBILITIES:

- A. The General Counsel is the approving authority for any requests to intercept a communication by Commission personnel, except as specified above.
- B. Bureau/Office Chiefs, except as specified above, will make an initial written request for authorization to engage in any interception for which consent of all parties will not be obtained.
- C. The General Counsel will make determinations on a case-by-case basis applying the applicable law in each instance. For each instance of approved interception, the General Counsel may provide to the requesting Bureau/Office directions concerning methodology and recordkeeping.

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

Mark Stephens  
Managing Director