
technologies may provide benefits, they raise potential consumer protection concerns as well, including the security of electronic communications, whether such communications satisfy the FDCPA's written notice requirements, and how they implicate the FDCPA's prohibition against contacting consumers at inconvenient times or places.¹⁶

Payment Technologies

Debt collectors, like many retailers, offer payment options to consumers other than cash or check, such as credit, debit, and stored value cards and automated clearinghouse transactions ("ACH").¹⁷ As discussed in the Report, these technologies can benefit consumers and debt collectors alike by streamlining the payment process and, in some cases, allowing consumers to engage in online negotiations with collectors.¹⁸ The Report, however, also identified the potential for unauthorized debits as a significant consumer protection concern arising from the use of electronic payment technologies.¹⁹

The Workshop

The workshop will focus on post-FDCPA advancements in information, communication, and payment technologies. Workshop panelists will discuss, among other things, the effects that these technologies have had on the debt collection industry, the prevalence of their use, best practices for their use, what consumer protection concerns they raise, and what responses those concerns may warrant.

The Commission seeks public comment and data submission on the topics and questions set forth below or any issue raised by this notice. Comments or data submissions may address the issues raised in these questions or other issues relevant to the topics to be addressed at the workshop. Any interested person may submit written comments. In preparing for the workshop, the Commission will consider comments received by April 7, 2011. Later comments will be accepted as well through May 27, 2011.

Topics for comment and discussion include:

1. What technologies have come into existence since the enactment of the FDCPA that have significantly affected consumer debt collection, or are likely

to do so in the future? What are the nature and magnitude of these effects?

Information Technologies

2. Have any advances in technology been made that could increase the likelihood that collectors will contact the correct consumer regarding the correct debt amount? What are the costs and benefits of using any such technology to consumers and the industry? How commonly is such technology being used? Does its use vary by size or type of debt collector? If its use is not widespread, why is that the case? What role, if any, should the Commission or other policymakers play in fostering the use of such technology?

3. Have technological advances changed how and where debt collectors obtain information about consumers and debt? How have technological advances affected the efficacy of skip-tracing and recovery rates? What are the recent innovations in skip-tracing applications? What are the sources of the data they access about consumers?

4. What technologies do collectors use to maintain information regarding consumers and debts (e.g., how do collectors record consumer disputes)? How do technological advances affect collectors' ability to ensure both that inaccurate information is removed from collectors' databases and that information indicating that a consumer should not be contacted is reflected in collectors' databases? To what extent is information overwritten by collectors in using or transferring to others the contents of databases, and what problems can this cause?

5. Do new information technologies create greater or different privacy or data security risks in the context of debt collection than traditional communication technologies? If so, what are the risks of such technologies, and how are the risks different? What, if anything, should collectors be required to do to prevent or mitigate these risks? What do debt collectors do to keep information on consumers and debts secure? How frequently do data breaches occur? What sorts of breaches occur?

6. What technologies do creditors, debt buyers, and debt collectors use in transferring information among

¹⁶ FDCPA § 809(a) (written validation notice from collector to consumer); FDCPA §§ 805(c) & 809(b) (written notices from consumer to collector); FDCPA § 805(a)(1) (convenience restrictions).

¹⁷ Report, s. note 1, at 20.

¹⁸ Report, s. note 1, at 20.

¹⁹ Report, s. note 1, at 51–55.

collectors be required to do to prevent or mitigate these risks?

13. Do new communication technologies in the context of debt collection create different risks of deception, unfairness, or abuse, compared to those associated with traditional technologies? If so, which technologies, and why?

14. What proportion of debt collectors' communications to consumers proceed by various modalities (. . . , letters, e-mail messages, calls to mobile phones, use of artificial or prerecorded voices, t .)? Are there variations by size of collection firm or type of debt subject to collection? If so, what are the variations?

15. How do current Federal and State laws apply to debt collectors' and consumers' use of post-FDCPA communication technologies? How, if at all, should the law be changed to take into account the costs and benefits of these technologies to collectors and consumers?

Payment Technologies

16. What proportion of consumer payments to debt collectors proceed by various payment methods (. . . , paper checks, ACH debits, or online credit card payment portals)? Are there variations by size of collection firm or type of debt subject to collection? If so, how?

17. What are the costs and benefits to collectors and consumers of accepting consumer payments using electronic payment technologies (. . . , direct ACH debits, electronic checks, online payment portals) as compared to traditional payment technologies (. . . , paper checks, credit card payments)?

18. Does debt collector use of electronic payment technologies create any greater or different privacy or data security risks in the context of debt collection than in the general retail industry? If so, which payment technologies create greater or different risks? What are the risks of such methods, and how are the risks different? What, if anything, should collectors be required to do to prevent or mitigate these risks?

19. Do electronic payment technologies in the context of debt collection create different risks of deception, unfairness, or abuse, compared to those associated with traditional technologies? If so, which technologies, and why?

20. How, if at all, should collectors be required to obtain and document consumer consent to making a payment using various payment technologies? Should requirements for collectors

differ from requirements for general retailers?

21. How do current federal and state laws apply to debt collectors' use of post-FDCPA payment technologies? How, if at all, should the law be changed to take into account the costs and benefits of these technologies to consumers and collectors?

Instructions for Filing Comments

Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "Debt Collection 2.0, Project No. P114802" to facilitate the organization of comments. Please note that your comment—including your name and your state—will be placed on the public record of this proceeding, including on the publicly accessible FTC Web site,

tt :// .ft . / s/ . To be considered in preparation for the workshop, comments must be received by April 7, 2011, although the Commission will accept comments until May 27, 2011.

Because comments will be made public, they should not include any sensitive personal information, such as any individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential * * *," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).²⁰

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted using the following Web link: tt s://

²⁰The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. S FTC Rule 4.9(c), 16 CFR 4.9(c).

ft . . . t s. /ft / (and following the instructions on the Web-based form). If this document appears at tt :// . t s. /#! , you may also file an electronic comment through that Web site. The Commission will consider all timely comments that regulations.gov forwards to it. You may also visit the FTC Web site at tt :// .ft . to read this notice and the related news release.

A comment filed in paper form should include the "Debt Collection 2.0, Project No. P114802" reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex F), 600 Pennsylvania Avenue, NW., Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Web site, to the extent practicable, at

tt :// .ft . / s/ . As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at tt :// .ft . /ft / .st .

Requests To Participate as Workshop Panelists

The FTC staff will identify and invite individuals with relevant expertise to participate as panelists. In addition, the FTC staff may invite other persons to participate as panelists who submit requests in response to this **Federal Register** notice.

Requests to participate as workshop panelists must be received in writing by 5 p.m. EST on Tuesday, March 22, 2011, and should refer to "Debt Collection 2.0—Panelist Participation Request." Such requests (except requests containing any confidential material)

