

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:

Information Technologies

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?

The most significant new technologies are cell phones, text messaging, the Internet, affordable answering machines, social networks, Virtual Agents, IVRs, dialing machines, email, portability of phone numbers to different geographic locations, and consumer databases – both public and private. These new technologies allow people to locate others and interact in ways not even conceived of in 1977. As consumers increasingly embrace these new technologies, older technologies become obsolete and ineffective in interactions.

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?

Such technologies include data services and data scrubs that help match the debt with the consumer's demographics and current residence and contact information.

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?

Network accessibility to consumer databases that consolidate court and other public records has greatly decreased the timeframe it takes to locate a consumer. For example, finding a phone number, whether the consumer has moved or not, is a lot faster.

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?

Collection software enables consumer status and information recording and incorporates full logging and auditing of changes. Voice recordings of collection calls also facilitate auditing and compliance. Application security is implemented to protect unauthorized changes to consumer information.

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?

Modern collection software incorporates state of the art encryption technologies to protect consumer data during transmission and when stored in a database. In addition, collection software requires proper identification and authentication of collectors before they can access consumer information. The software restricts access to sensitive consumer information (such as SSN or date of birth) to only authorized collectors.

6. What technologies do creditors, debt buyers, and debt collectors use in transferring information among themselves about alleged debtors and debts? What information is transferred, and when and how is it transferred? How has technology affected the availability of media evidencing debt and the ability to store and transfer that material? To what extent are there problems with systems being unable to interact with each other?

SFTP, FTPS, HTTPS, Web Services using SSL are examples of modern electronic technologies used to transfer information. These technologies are highly secure and are the same ones used by banking and financial institutions. Original credit grantors often electronically transmit debt information to a collection company, as this is more efficient and secure than older methods, such as paper or spreadsheets. Before data can be transmitted between two systems, an exchange of credentials must take place (called handshaking). If the handshake is not successful, the exchange of data does not occur.

7. What is the prevalence and feasibility of outsourcing the transfer (and storage) of information to third-party firms that act as repositories of information on consumer debts? What are the potential costs and benefits to consumers, collectors, and creditors of such repositories? What role should creditors play with respect to these repositories? Should the Commission or other policymakers mandate or encourage the use or creation of such repositories?

8. To what extent do advances in technology affect the process of selling debts, the ease and speed of selling debts, and the quantity and nature of the information conveyed when debts are sold? Are debt sales negotiated or closed using social media sites or Internet marketplaces? What is the significance, if any, of whether debts are bought or sold via social media or the Internet?

What would be the costs and benefits to consumers of buying or selling debts through these media?

From a security standpoint, the technology of today can ensure that consumer information is protected at every stage of the selling and debt buying process.

9. How do current federal and state laws apply to debt collectors' use of post-FDCPA information 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?

Communication Technologies

10. What are the costs and benefits to collectors and consumers of using various methods to communicate with consumers? Are the costs and benefits different for traditional communication technologies (e.g., letters and landline telephone calls) compared with new communication technologies (e.g., social networking sites, e-mail, text messages, etc.)?

New technologies are significantly less expensive. For example, 45 cents for a letter versus 15 cents for an email. Restricting the use of modern technologies through regulation makes them difficult to fully utilize, hence, the full cost savings cannot be realized. In the long run, this drives up the cost of goods and services to consumers.

11. Should debt collectors be required to obtain consumer consent to use particular methods of communication to contact consumers? If so, which communication methods and why? Should it depend on whether the consumer provided the creditor or collector with the necessary contact information? If consent should be required, what, if anything, should collectors be required to do to obtain such consent? How likely are consumers to provide such consent?

If the original credit grantor is not restricted in their method of communication, then neither should any of the credit grantor's contracted agents be restricted, such as a collection company.

12. Do new communication technologies create any greater or different privacy or data security risks in the context of debt collection than traditional communication technologies? If so, which communication methods 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?

Since there is generally one landline in a home, it is usually shared with all occupants. As a result, the landline (including its extensions scattered throughout the home) has greater potential to cause privacy violations or enabling security breaches than a cell phone. Very few consumers share their cell phone with others; hence, the cell phone is very secure in comparison to a landline. The same is true with email versus regular mail. Regular mail is delivered to the household's mailbox that is generally located in front of the house, while email gets delivered securely to the consumer's inbox on their private computer located inside their home. The same is true with text messaging, etc.

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?

These new technologies actually decrease the risk of deception and abuse. The reason is because these new technologies include such things as voice recordings (for dialing machines), audits and logs, date and time stamps, URLs tracking the source, etc. All of this means it's much easier for a consumer to prove deception and abuse, and hence, better motivation for debt collectors to stay away from such practices.

14. What proportion of debt collectors' communications to consumers proceed by various modalities (e.g., letters, e-mail messages, calls to mobile phones, use of artificial or prerecorded voices, etc.)? 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?

These laws need to be overhauled to represent communication as it exists in the 21st century. Many of the existing laws are confusing, contradictory, and no longer applicable. Take for example, cell phone technology. The current laws (TCPA) were enacted when this technology was in its infancy. Cell phone use is now wide-spread (worldwide), and the conditions that existed in its infancy no longer apply. Maintaining these old laws ultimately increases the costs to consumers because of workarounds (cell phone scrubs), increased costs to obtain permissions, tracking and recording approvals, plus the lawsuits that are levied at collection agencies.

Payment Technologies

16. What proportion of consumer payments to debt collectors proceed by various payment methods (e.g., 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 (e.g., direct ACH debits, electronic checks, online payment portals) as compared to traditional payment technologies (e.g., 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?

Modern technologies used by collectors are the same used by banking and financial institutions, that is, secure transmission and storage of consumer information is employed throughout the entire process.

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?

The payment technologies, in and of themselves, do not present a greater risk to consumers owing debts than to consumers paying their utility bills through a payment portal, or buying goods and services over the Internet.

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?

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: <https://ftcpublic.commentworks.com/ftc/debtcollecttechworkshop> (and following the instructions on the Web-based form). If this document appears at <http://www.regulations.gov/#!home>, 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 <http://www.ftc.gov> to read this notice and the related news release.