

What	Why	How
<p><b><u>Use Modern Technology Responsibly:</u></b></p> <p>Allow consumers and collectors to efficiently communicate with each other using modern technology, such as e-mail and cellular telephones.</p>	<p><u>Cell Phones</u> Cellular phones are an essential method of communication for consumers. The fact is that telephone calls are the most efficient way to contact consumers about their payment obligations, and many consumers use cell phones as their primary or exclusive point of contact. <u>However, the FDCPA prohibits collectors from imposing additional telephone charges on consumers without disclosing the purpose of the call. There are still some cell phone plans that cause a consumer to incur a charge for each call received by the consumer.</u></p> <p><u>E-mail / Texting</u> E-mail and texting are a relatively new technologies that provide an effective channel for communicating with consumers, displacing standard mail. However, the FDCPA does not address the use of e-mail or texting, and the current law creates a risk of a third-party disclosure if someone other than the consumer opens the e-mail or text.</p> <p><u>Autodialers</u> Autodialers and predictive dialers represent technological advances that have proven to be invaluable tools to the modern collection agency. Unfortunately, current law fails to appreciate significant changes in both technology and consumer preference.</p>	<p><i>The FDCPA and TCPA should be amended to allow collectors to communicate with consumers by any method of communication available.</i></p> <ul style="list-style-type: none"> <li>• <i>Any functional difference between a cell phone and a residential land line has been eroded. Unlike when the FDCPA and TCPA were enacted, consumers today treat cell phones as a communication tool identical to a residential land line, and the law should be updated to reflect this reality.</i></li> <li>• <i>If a consumer has provided an e-mail address to the creditor or debt collector, the collector should be able to communicate with the consumer without potential liability for third-party disclosure. The same is true for texting and other consumer-designated communication preferences.</i></li> <li>• <i>The TCPA restrictions on the use of an autodialer or prerecorded message to call a consumer's cell phone should be amended to limit their application to telemarketing calls, in keeping with the intent of the law.</i></li> </ul>
<p><b><u>Better, Simplified Communications with Consumers:</u></b></p> <p>Allow consumers and collectors to better and more effectively communicate about debts. Accurate, timely account information empowers a consumer, for example, by affording the opportunity to notify a creditor of changed financial circumstances impacting the ability to pay, disputing account information, or invoking the consumer's right to require verification of the debt or cease communications.</p>	<p><u>Voice Mail</u> The FDCPA does not address the proper use of basic technologies, such as voicemail, when communicating with consumers by telephone.</p> <p><u>Validation Notice</u> The validation notice that collectors are required to provide to consumers is not effective, nor is it sufficiently detailed to provide meaningful disclosure to consumers of the information needed to evaluate the debt.</p> <p><u>Disputing a Debt</u> Consumers frequently dispute the validity of a debt. Many of these debts appear on a consumer's credit report. A consumer dispute of a debt under the FDCPA triggers different rights and obligations of collectors, as compared to a dispute of an account on a consumer report pursuant to the Fair Credit Reporting Act (FCRA). This causes confusion for consumers and collectors.</p>	<p><i>The FDCPA should be amended to:</i></p> <ul style="list-style-type: none"> <li>• <i>Specify the precise language that a collector can leave in a voice mail message without violating the law. Such an amendment will reduce the number of calls to consumers that are terminated without a message due to concerns of third-party disclosures of the existence of a consumer's debt.</i></li> <li>• <i>Change the validation notice and require it to include the name of the original creditor and to provide an itemization of the fees and interest applied by a collector after it is placed for collection or by a debt buyer after it is acquired. Ultimately, including this information in the validation notice will reduce consumer confusion and better enable consumers to evaluate the origination of the debt and the amount sought in collections.</i></li> <li>• <i>In order to create parity between the FDCPA and FCRA and to improve the handling of consumer disputes, the FDCPA should be amended to require the same dispute notice and investigation requirements as the FCRA. Collectors should be required to conduct a reasonable investigation of a consumer's dispute and to provide verification to the consumer that is responsive to the dispute filed by the consumer regarding the amount of the debt, to whom the debt is owed or who is responsible for paying the debt.</i></li> </ul>

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<p><b><u>Advocate for Responsible Litigation in the Collection Industry:</u></b></p> <p>Ensure equal access to the judicial system for all classes of litigants and hold those litigants acting in bad faith accountable for their actions.</p>	<p><u>Litigation Standards</u> Collectors must be responsible for making sure the consumer receives the requisite notice of the suit. In addition, collectors should ensure they have a reasonable basis for filing the suit and access to documentation to support the claim underlying the suit.</p> <p>These same standards apply to all litigants, including attorneys representing consumers in suits against collectors alleging violations of the law. They need to make sure they are representing the best interests of their clients and have evidence reasonably necessary to support the allegations made in the complaint.</p> <p><u>Garnishment</u> In order to reduce the inadvertent and improper garnishment of funds in a bank account that are exempt under the law financial institutions, upon receipt of a garnishment order, should be required to review the account at issue to determine whether any deposited funds within a particular time frame are exempt and to protect those exempt funds from garnishment/being frozen.</p>	<p><i>To achieve more responsible litigation in the collection industry:</i></p> <ul style="list-style-type: none"> <li><i>Equal access to the judicial system should not be eroded by creating different standards for different classes of litigants. Rather than creating heightened and unreasonable requirements for a single litigant class to seek redress in court, rules of civil procedure and local court rules should offer greater clarification and direction to all litigants. Parties who bring suit without reasonable and acceptable evidence are acting in bad faith and should be held accountable for their actions to the opposing party and the courts.</i></li> <li><i>Federal and State laws should specify that the financial institution is required to verify exempt funds held in a consumer account using a lookback approach to avoid freezing exempt funds in a consumer's account.</i></li> </ul>
<p><b><u>Assure the Proper Documentation of Debts:</u></b></p> <p>Improve the flow of information by clarifying the specific debt information that must be maintained by creditors and asset buyers in order to allow debt collectors to provide documentation responsive to a consumer's dispute regarding the amount of the debt, to whom the debt is owed or who is responsible for paying the debt.</p>	<p>The availability of complete and accurate consumer account information is the foundation of a fair and effective collection system. Creditors generate vast amounts of consumer information in the origination and maintenance of consumer accounts. Collectors rely upon the transfer of this information to effectuate collection of the debt once it becomes delinquent. In cases where creditors sell portfolios of consumer accounts to debt buyers, the robust transfer of complete consumer account information is critical to both consumer privacy and effective collections.</p> <p>Industry critics have raised concerns that consumer data is not always made available to collectors or are otherwise inadequate to verify consumer information and validate the amount of the debt when a consumer requests verification of such debts. The reasons for this are varied and include the lack of a legal requirement for creditors to maintain or make the information available, privacy and security concerns, technological impediments, and the added costs to creditors to transfer the data.</p>	<p><i>Concerning documentation of debt for collection purposes, the Truth in Lending Act should be amended to require original creditors maintain consumer account information for no less than seven years from the date of charge-off.</i></p> <ul style="list-style-type: none"> <li><i>The seven-year time period is consistent with the amount of time a debt can be reported on a consumer's credit report. Mandating the length of time for which this information is available will help consumers better assess their responsibility for the debt. It will help collectors provide documentation to consumers responsive to their disputes regarding the amount of the debt, to whom the debt is owed or the party responsible for paying the debt.</i></li> </ul>
<p><b><u>Adopt a Federal Seven-Year Statute of Limitations for the Use of Litigation to Collect Debt:</u></b></p> <p>Impose a seven-year Federal limitations period on the use of litigation to collect debt and prohibit filing or threatening to file suit on time-barred debts.</p>	<p>There are significant differences in state limitations laws and ambiguities as to when the applicable state limitation period is triggered. This creates confusion for creditors and collectors and lack of clarity as to whether litigation can be legally pursued.</p> <p>Another source of confusion results from the reporting of debt that has been placed for collections or charged to profit or loss. Pursuant to the Fair Credit Reporting Act (FCRA), such debt can be reported for seven years and 180 days from the date of delinquency. This reporting period is applicable regardless of the statute of limitations for the debt.</p>	<p><i>A Federal statute of limitations should be enacted and applied to all debts.</i></p> <ul style="list-style-type: none"> <li><i>The applicable limitation period should be seven years from the date of the account's last activity – the same length of time the debt can be reported to a consumer reporting agency under the FCRA. Thereafter, while the creditor can continue to collect the debt after the statute of limitations has expired, the creditor cannot file a lawsuit against the consumer to recover the debt.</i></li> <li><i>Further, the FDCPA should be amended to clarify that filing suit or threatening to file suit after the expiration of the seven-year statute of limitations violates the FDCPA.</i></li> </ul>

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<p style="text-align: center;"><b><u>Complaints</u></b></p> <p>Work with ACA members to provide education and training to prevent, reduce and resolve consumer complaints.</p>	<p><i>Debt collectors take very seriously the issue of consumer complaints and agree on the significant importance of protecting consumers against any business that engages in deceptive, unfair or abusive practices.</i></p> <p><i>We believe that consumers deserve respect in the legitimate collection of debt and that harassment, threats and other illegal activity are unacceptable and violators must be held accountable.</i></p> <p><i>However, the FTC's complaint methodology paints an incomplete and inaccurate portrait of complaints against the third-party collection industry.</i></p> <ol style="list-style-type: none"> <li>1. The FTC report does not factor in the dramatic consumer debt crisis that exists in America, which has been exacerbated by an economic recession over the past three years that created more consumer credit defaults than in any other time in our nation's history. This is a significant impact that cannot be ignored.</li> <li>2. The complaint data is actually comprised of both inquiries and complaints, meaning there is no regard for whether the consumer is contacting the FTC with a question or a legitimate complaint. And, the FTC has acknowledged that "not all of the debt collection practices about which a consumer complain are law violations."</li> <li>3. The FTC does not share consumer contacts with debt collectors so they may seek to resolve legitimate complaints. When given the opportunity, debt collectors want to work with consumers to resolve complaints. According to the Better Business Bureau, debt collectors resolve 84 percent of the complaints received against them - significantly higher than other industries.</li> </ol> <p>ACA International members are working with regulators, Congress and state leaders to ensure a balanced debt collection system that allows for legitimate debt collection to function and protects consumers.</p>	<p><i>ACA is not a regulatory body or enforcement authority. We firmly believe that debt collection should be done legally and with respect to consumers. Those debt collectors who engage in illegal activities should be held fully accountable under federal and state law.</i></p> <p><i>All members are required to abide by ethical guidelines as a condition of membership. Our focus is on providing ACA members with education/training to help them better understand how and why they need to prevent, manage and resolve consumer complaints. Still, even with our resources and best efforts committed, success will ultimately rely on each individual debt collector to follow federal and state law.</i></p> <p><i>In addition to the activities outlined in this Blueprint, ACA will continue to:</i></p> <ul style="list-style-type: none"> <li>• <i>Help improve consumer financial literacy. The ACA International Education Foundation created AskDoctorDebt.com, a free website in English and Spanish to help consumers better understand debt collection and their rights.</i></li> <li>• <i>Require every ACA member to appoint a person or department within the company to handle complaints</i></li> <li>• <i>Provide consumers with a telephone number, e-mail address, website or mailing address to which complaints can be directed</i></li> <li>• <i>Require every ACA member to adopt and agree to abide by ACA International's Collector's Pledge.</i></li> <li>• <i>Provide training and support to ACA members and their employees to help them effectively prevent, reduce and resolve consumer complaints.</i></li> </ul> <p><i>By implementing these actions, and the other actions outlined in this Blueprint, ACA is helping members effectively prevent, reduce and resolve consumer complaints.</i></p>