One survey of collectors reports that thirty-six percent of collectors communicate with consumers by email, compared to ninety-eight percent using letters and manual telephone calls.\textsuperscript{418} Emails to consumers can raise privacy concerns if the consumer shares an email account with another person or if the collector uses a work email address that may be viewed by an employer. New York adopted regulations regarding debt collection emails,\textsuperscript{419} and the Consumer Financial Protection Bureau is considering proposals related to emails in its anticipate debt collection rulemaking under the FDCPA.\textsuperscript{420} A collector that wants to send the validation notice required by section 1692g of the FDCPA electronically must also comply with the federal E-Sign Act,\textsuperscript{421} which defines when a consumer can be deemed to have consented to receive electronic records instead of paper writings.\textsuperscript{422} According to one survey of collectors, only 2.7\% of collectors communicate with consumers by text message.\textsuperscript{424} The FTC has clarified that while contacting consumers via text message is not prohibited by the FDCPA, collectors must still comply with the FDCPA, including disclosure requirements.\textsuperscript{425} Collectors using text messages must also comply with the Telephone Consumer Protection Act.\textsuperscript{426}

Collectors frequently view public information in social media accounts to try to identify where consumers work or bank, location information, or potential assets.\textsuperscript{427} Other collectors use private messaging options in social media to contact consumers and some even ask consumers to “friend” them through social media platforms on Facebook.\textsuperscript{428} Almost ten percent of respondents to one survey about the use of technology by collection agencies indicated that they used social media to communicate with consumers.\textsuperscript{429} The FTC has warned that certain social media communications may violate the FDCPA,\textsuperscript{430} and the CFPB uses an interagency social media guidance in its supervision of social media practices.\textsuperscript{431}

Footnotes


\textsuperscript{419} N.Y. Comp. Codes R & Regs. tit. 23, § 1.6.


\textsuperscript{421} See Ch. 9 [2], infra.


\textsuperscript{425} Colin Hector, Debt collectors: You may “like” social media and texts, but are you complying with the law? (Fed. Trade Comm’n, Mar. 28, 2016).

427 See, e.g., Gerri Detweiler, Why You Can’t Hide from Debt Collectors, ABC News, Mar. 23, 2014. See also § 1.3.7 [6], supra.


430 Colin Hector, Debt collectors: You may ‘like’ social media and texts, but are you complying with the law? (Fed. Trade Comm’n, Mar. 28, 2016).

431 See Appx. B.3 [8], infra.

Source URL: https://library.nclc.org/fdc/010504-0

Links
[5] https://library.nclc.org/nclc/link/FDL.06.07
[6] https://library.nclc.org/nclc/link/FDC.01.03.07
[8] https://library.nclc.org/nclc/link/FDC.AB.03