

Communicating with Consumers Via E-Mail

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Using e-mail to contact consumers carries numerous benefits and definite risks.

Many agencies have inquired about attempting to collect unpaid accounts by using e-mail. The benefits to using this method are indisputable. The money saved on letter printing costs and postage would be tremendous. Additionally, the speed of electronic communication obviously surpasses that of the traditional “snail mail.” Despite the undeniable benefits of using e-mail, there are also risks associated with this method of communication. It is vital collectors familiarize themselves with such risks in order to comply with governing laws.

Perhaps the greatest concern surrounding the use of e-mail is the risk of a third-party disclosure under the Fair Debt Collection Practices Act (FDCPA). The risk of a violation of the FDCPA for an inadvertent third-party disclosure may be minimized, if not absolved, if a consumer consents to receiving communications via e-mail. Thus, prior to communicating with the consumer by e-mail, a collector should obtain the express consent of the consumer. The consent may be verbal, written or electronic. Any such consent provided by the consumer must be documented and maintained by the debt collector.

A collector’s Web site may include a check-off box, which would give consumers the option of receiving future communications from the collection agency via e-mail. The collector should ask the consumer not to provide a shared e-mail address or a work e-mail address. Additionally, the collector may wish to inform the consumer what information may be sent to their e-mail address and that their address will not be sold or distributed to any third party.

If a debt collector does choose to communicate by e-mail, the communication should be treated the same as any other type of written correspondence to a consumer. The e-mail will need to provide the Mini-Miranda disclosure and any state special text requirements.

The opportunities for cost savings associated with communicating with consumers expand as technology advances. Join Matt Edmunds with SoundBite Communications at the 2009 March for Success Technology Track in Las Vegas, March 15-17, 2009, when he discusses alternative communication methods available to debt collectors, including e-mail, instant message, text messaging and others.