

Email Collections:

Do's and Don'ts



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— Arie de Geus

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Email Collections: Do's and Don'ts

By Michelle Dunn

1. What is email
 - a. Different types of email
 - b. Private email
 - c. Social network email
 - d. Work or employer email
2. Using email to communicate with your customers
 - a. What you can do
 - b. What you can't do
 - c. Best business practices regarding email
 - i. Obtaining consent to use email
 - d. Laws pertaining to email
 - i. Can Spam Rules
 - ii. The Federal Trade Commission
 - iii. The Fair Debt Collection Practices Act
 - e. Risks of using email
 - f. Benefits of using email for your business
 - g. Protecting your business while using email
3. Addressing Privacy Issues
 - a. Hacking
 - b. Identity Theft
4. Sending Invoices with email
 - a. Do I need permission?
 - b. Sending attachments
5. Sending Statements with email
 - a. Do I need permission
 - b. Verifying delivery
6. Corresponding through email about past due accounts
 - a. Sending backup documentation
 - b. Proof of delivery
 - c. Proof of sale or order
 - d. Dunning notices
 - e. Final notice before further action

Benefit of attendance:

Technology has changed how we all communicate and do business. Businesses and collectors have the added challenge of trying to contact customers or debtors who may only use cell phones, have given up their land line phones and that use email, instant messages, social media websites and text messages as their primary form of communications.

In this tele-conference, *Email Collections: Do's and Don'ts* you will learn how you can use email to enhance your customers experience and streamline your businesses productivity in relation to getting paid. Learn how email can help improve your collections and what some of the most common mistakes are when using email and how you can avoid them.

Email Collections: Do's and Don'ts

By Michelle Dunn

More and more collectors and debtors are asking the questions about sending and receiving collection information through email. As you know email is not covered in the current FDCPA but is being looked at by the FTC so that the laws can be updated and changed. So until that happens, what should we do?

As a first party collector or an original creditor you do not have to follow the FDCPA, only the state laws where you and your debtor are located. BUT as an original creditor trying to collect on a past due invoice, is it ethical or appropriate to utilize email as a collection tool?

Some debtors are confused when they receive a collection letter in their email box. This seems to be because they are used to receiving them through the postal mail and not through email, so this is something new to them which then makes them look at the law. No one wants to receive a collection notice, and some believe email is “private” or “protected” by the law and are upset to receive a collection notice by email.

Other debtors say they would rather get a notice through email with a live link available within that email so that they can immediately make the payment on line and be done with it.

Still others accept that they might have received a collection letter by email but question why it doesn't have the mini-miranda included. Others are responding with an email in reply that states that the email address they received the notice at, is a business only email address and not to contact them that way again.

What is e-mail

According to a report titled Email Communications in the Debt Collection Industry prepared by James D. Burchetta, Co-Chairman & CEO of Debt Resolve Inc., nearly 75% or 204.3 million Americans have access to the Internet from home. As a result, consumers are using the Internet for a number of online services, one being email in some shape or form.

Electronic mail predates the inception of the Internet, and was in fact a crucial tool in creating it. E-mail was widely accepted by the business community as the first broad electronic communication medium and was the first ‘e-revolution’ in business communication. E-mail is very simple to understand and like postal mail.

There are many pros and cons to email in the business world. According to Wikipedia, some Pro's of using email are *The problem of logistics*: Much of the business world relies upon communications between people who are not physically in the same building, area or even country; setting up and attending an in-person meeting, telephone call, or conference call can be inconvenient, time-consuming, and costly. E-mail provides a way to exchange information between two or more people with no set-up costs and that is generally far less expensive than physical meetings or phone calls.

According to Wikipedia, most business workers today spend from one to two hours of their working day on e-mail: reading, ordering, sorting, 're-contextualizing' fragmented information, and writing e-mail. E-mail can lead to some well-known problems:

Loss of context: which means that the context is lost forever; there is no way to get the text back. Information in context (as in a newspaper) is much easier and faster to understand than unedited and sometimes unrelated fragments of information. Communicating in context can only be achieved when both parties have a full understanding of the context and issue in question.

Information overload: E-mail is a push technology—the sender controls where the information is received. Convenient availability of mailing lists and use of "copy all" can lead to people receiving unwanted or irrelevant information of no use to them.

Inconsistency: E-mail can duplicate information. This can be a problem when a large team is working on documents and information while not in constant contact with the other members of their team.

Despite these disadvantages, e-mail has become the most widely used medium of communication within the business world. According to Nielsen/NetRatings nearly 75% or 204.3 million Americans have access to the internet from home and many also have access to the internet at work.

Email in some cases has taken over as a form of communication replacing the telephone because of its instant response capability and convenience.

Different Types of Email

There are many different types of email out there, the most common being POP email, web-based email, ISP mail services, web site email services, social media email or mail forwarding services.

No matter what type of email service you or your customers use, they will be compatible. Email has become the "go to" form of communication in today's society.

Private Email

Your private email account would be the account you set up aside from your job for personal correspondence with family or friends that has nothing to do with your job or the work that you do.

Email may feel like a private one on one conversation but email is as confidential as talking out loud in a restaurant. Email messages can be intercepted and read anywhere in transit by anyone with these capabilities.

If you are a first party collector, private email is the only email you should ever consider using to contact a customer, hopefully with their permission, and until the laws are changed.

Social Network Email

Consumers everywhere are upset that collectors are utilizing social networks to locate them in order to collect a debt. Many are claiming this is unethical and just another “low life tactic” to harass a debtor. Let us remember a debtor is a debtor because they owe someone money, unfortunately many debtors think if their financial situation changes or they over spend, they should not have to pay that money and are upset when they are asked to pay that money back. They are even more unhappy to hear from a bill collector through a social networking website.

Statistics from Nielsen show us that 75% of internet users worldwide visit a social network or blog when they go online, this is a 24% increase since 2010. Their stats also show the degree in which social networking is replacing other forms of communications, with e-mail time plunging from 11.5% to 8.3% from June 2009 through June 2010. Instant messaging also saw a huge drop with a 15% decline from last year. However, e-mail use on mobile technology is on the rise, up from 37.4% to 41.6% which Nielsen assumes is from users migrating to smart phones from regular cell phones.

Social networks are continuing to gain momentum throughout 2011 with 9 out of every 10 U.S. internet users now visiting a social network in a month, and the average internet user spending more than 4 hours on these social websites each month.

According to an article in Philly.com posted on Tuesday, November 2, 2010, Richard Rubin, a consumer rights lawyer, said that sending a private email as a collector through a social media site is questionable, because the collection agency runs the risk that they have the wrong person.

Work or employer email

If you work in a medium-sized or a large company they would probably have their own email servers. Generally, you get your own email address a few days after joining the company. This would be your business email ID and I advise you to keep personal

correspondence away from it. Company email addresses have many strings attached so be wary of how and what you use it for.

Do you own a web site? Depending on your hosting package, you can create email accounts on the web site for yourself or your staff.

New technologies make it possible for employers to monitor many aspects of their employees' jobs, especially on telephones, computer terminals, through electronic and voice mail, and when employees are using the Internet. Such monitoring is virtually unregulated. Therefore, unless company policy specifically states otherwise (and even this is not assured), your employer may listen, watch and read most of your workplace communications.

If an electronic mail (e-mail) system is used at a company, the employer owns it and is allowed to review its contents. Messages sent within the company as well as those that are sent from your terminal to another company or from another company to you can be subject to monitoring by your employer. This includes web-based email accounts such as Yahoo and Hotmail as well as instant messages. The same holds true for voice mail systems. In general, employees should not assume that these activities are not being monitored and are private. Several workplace privacy court cases have been decided in the employer's favor.

Two states, Connecticut and Delaware, require employers to give notice to an employee prior to monitoring their email communications. Colorado and Tennessee require states to adopt a policy regarding monitoring public employees email accounts.

If you are in Delaware, the code is 19-7-705 and

- Prohibits employers from monitoring or intercepting email unless the employer has given the employee a one-time written or electronic notice.

- Provides exceptions for maintenance or court ordered actions.

- Provides for a civil penalty of \$100.00 for each violation.

If you are in Connecticut the code is 31-48d and

- Employers must give prior written notice to any employee about any electronic monitoring which they may do.

- If an employer suspects and can produce evidence of illegal conduct they may monitor work email accounts without prior written notice.

- Provides for civil penalties of \$500.00 for the first offense, \$1000.00 for the second offense and \$3000.00 for the third and any other offenses.

If your sending email at work, your boss (and this may be you) can legally monitor it and if your company becomes involved in a lawsuit the plaintiff has the legal right to review those emails.

Using Email to communicate with your customers

Collectors want to use new technologies, such as email, instant messages, and texting as a tool to provide collection notices, verification and messages to debtors. According to the ACA International “There is a tension between email and the Fair Debt Collection Practices Act’s requirement that communications about a debt not be disclosed to a third party”. This is because someone other than the debtor could view that email. In response the FTC stated that they are not aware of any data bearing on the extent to which 3rd party collectors have access to debt collection emails, texts or instant messages. The FTC further states that they are not aware of any information demonstrating that 3rd parties have greater access to debt collection messages conveyed through online methods rather than traditional means. The FTC considers phone calls and letters traditional means. Additionally, the FTC does not believe that the imposition of any special limitations on debt collector’s use of email and instant messages is justified BUT they do feel that if a third party becomes aware of a debt through any method, such as email or instant messaging, the collector is and will be held liable for violating Section 805(b) of the FDCPA.

Some debtors are more receptive to emails as a form of communication and will make that known to you as the collector. As more and more people spend time on their computers or have emails going directly to their cell phones may ask you to communicate this way with them.

If a debtor states that this is their preferred way of communication and provides you with their email address, just be sure to keep that information in writing on their file. Also, include the Mini Miranda if you are a third party collector at the end of each email message.

The use of email risks third party disclosure under the Fair Debt Collection Practices Act, email is sometimes electronically stores at several locations, such as where it originates and where it is sent, email is not considered a secure form of communication. Some things to keep in mind when considering using email as a form of communication when collecting a debt is that many employers monitor employee email accounts and usage, and some consumers and businesses have employees that check their emails for them. Families share email accounts and some email services (such as hotmail or yahoo) reserve the right to monitor and view emails when they see fit.

When using email as a form of debt collection communication make sure you have covered all aspects of disclosure requirements imposed by the FDCPA and/or your states laws.

I suggest creating policies and procedures specifically focused on email and how it can or will be used in your organization. Some things to consider including in your email policies and procedures could be:

Customer authorization in writing to communicate via email

Only utilizing email when it is initiated by the debtor or customer

What you Can do

If you decide to use email as a way of corresponding with your past due customers, just make sure the email address you are using belongs to that person exclusively. Even when you do this, you have no control over when or where the email will be read, which can be a privacy concern. Be sure to have permission, written is best, with your customers to correspond regarding past due balances through email.

What you Can't do

Right now there aren't any laws forbidding a business to utilize email as a communication tool with their customers, whether that is a private email or work email. Common sense has to be the factor when you decide if you want to take the route of emailing past due customers their notices or bills.

Some things to consider when using email for collections:

Will a third party ever see that email?

How will you verify this email belongs exclusively to that customer or debtor?

Are you sure the debtor receives the emails in a timely manner? How often do they check their email and is there any way to gauge this.

Using email as a collection tool is really a preference at this point, if you feel it will be effective for your billing department, maybe you want to set up a few rules and procedures and give it a trial run. That way you can gauge whether it is working for your business, by increasing your bottom line, or by the level of responses you get when you send out a past due bill by email.

Best business practices regarding email

Collectors need to make sure that any email notices regarding a debt is not read by anyone than who it is intended for. Prior consent from the customer is needed before email or electronic debt collection notices are sent. Though email is a common form of communication, there are no laws in relation to using email as a debt collection tool as of yet, though the Federal Trade Commission is working on that.

Email offers the recipient a way out of dealing with a confrontation, so many customers will be receptive to receiving past due notices, statements or invoices by email. Many like this idea because they don't have to explain why they are past due if you email them but if you call them, they are put on the spot and need to provide an answer right then.

Your main concern as a collector sending an email about a debt is that the email is not intercepted by anyone else, such as a children, friends or maybe a spouse. Prior consent is always needed before any e mails are sent in regards to a past due balance – and that is only if you are a first party collector. As a third party collector, you have a much bigger risk if you use email as a form of communication with a debtor.

Obtaining consent to use email

Two states, Nevada and Minnesota, require that Internet Service providers keep certain information private, unless the customer gives disclosure permission. Both of these states prohibit disclosure of any personally identifying information, but Minnesota also requires ISP's to get permission from customers before disclosing information about their online habits. (Minnesota statute 325M.01 to .09 & Nevada revised statute 205.498)

Laws pertaining to email

Americans have always expressed great concerns about privacy on the internet and state legislatures have responded in several ways. Some of the state level actions directly relating to internet privacy include these laws:

- Privacy of personal information
- Employee email communications
- Privacy policies

The FDCPA does not cover online technology in reference to debt collection. We are hopeful that as the FDCPA is updated and changes are made that online collection techniques and technology will be specifically addressed.

I would like to bring to your attention a portion of the February 2009 Federal Trade Commission workshop report:

“Consumer advocates expressed serious misgivings about the possible consumer harm that might arise if debt collectors were free to contact consumers via mobile phones and other newer technology methods.

These commenter's noted three primary concerns:

1. That some of these methods, such as mobile telephones, email, text messages and instant messaging, may lack the requisite level of data security or confidentiality to be used for sensitive debt collection matters.
2. That consumers may incur costs for some contacts using new technologies if, for example, the mobile calling plan of a consumer who receives a debt collection call does not permit unlimited minutes, or imposes charges for text messages.
3. That debt collectors using newer technologies may inconvenience or embarrass consumers by contacting them when they are driving, in appointments or at work.”

The FDCPA does not apply to creditors or businesses that are collecting their own debts in their own name. If you, as a business, extend credit, you are able to pursue its collection. This does not mean creditors can do anything they want in order to collect, they must be aware of privacy laws, harassment or defamation when collecting on any debt that is owed to them. As an example, if you as a creditor call a customer that owes you money late at night, repeatedly, at work or home and making threats that cannot be followed through on, you can find yourself in legal hot water. As long as you stay within the boundaries of reasonableness and use common sense you shouldn't have a problem. If you find yourself being overly aggressive, you may want to contact an attorney or stop being so aggressive in order to avoid a lawsuit.

If you are a collection attorney you may know that the American Bar Association (ABA) believes that "an attorney may transmit information relating to the representation of a client by unencrypted e-mail sent over the internet without violating (his duty of client confidentiality), because there is a reasonable expectation of privacy. Check with your state bar to see if they have addressed this issue.

Can Spam Rules

The Federal Trade Commission enforces the Can-Spam Act which is a law that sets the rules for commercial email, establishes requirements for commercial messages, gives recipients the right to have you stop emailing them, and spells out tough penalties for violations.

Despite its name, the CAN-SPAM Act doesn't apply just to bulk email. It covers all commercial messages, which the law defines as "any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service," including email that promotes content on commercial websites. The law makes no exception for business-to-business email. That means all email – for example, a message to former customers announcing a new product line – must comply with the law.

Each separate email in violation of the CAN-SPAM Act is subject to penalties of up to \$16,000, so non-compliance can be costly. But following the law isn't complicated. Here's a rundown of CAN-SPAM's main requirements:

1. **Don't use false or misleading header information.** Your "From," "To," "Reply-To," and routing information – including the originating domain name and email address – must be accurate and identify the person or business who initiated the message.
2. **Don't use deceptive subject lines.** The subject line must accurately reflect the content of the message.
3. **Identify the message as an ad.** The law gives you a lot of leeway in how to do this, but you must disclose clearly and conspicuously that your message is an advertisement.
4. **Tell recipients where you're located.** Your message must include your valid physical postal address. This can be your current street address, a post office box

you've registered with the U.S. Postal Service, or a private mailbox you've registered with a commercial mail receiving agency established under Postal Service regulations.

5. **Tell recipients how to opt out of receiving future email from you.** Your message must include a clear and conspicuous explanation of how the recipient can opt out of getting email from you in the future. Craft the notice in a way that's easy for an ordinary person to recognize, read, and understand. Creative use of type size, color, and location can improve clarity. Give a return email address or another easy Internet-based way to allow people to communicate their choice to you. You may create a menu to allow a recipient to opt out of certain types of messages, but you must include the option to stop all commercial messages from you. Make sure your spam filter doesn't block these opt-out requests.
6. **Honor opt-out requests promptly.** Any opt-out mechanism you offer must be able to process opt-out requests for at least 30 days after you send your message. You must honor a recipient's opt-out request within 10 business days. You can't charge a fee, require the recipient to give you any personally identifying information beyond an email address, or make the recipient take any step other than sending a reply email or visiting a single page on an Internet website as a condition for honoring an opt-out request. Once people have told you they don't want to receive more messages from you, you can't sell or transfer their email addresses, even in the form of a mailing list. The only exception is that you may transfer the addresses to a company you've hired to help you comply with the CAN-SPAM Act.
7. **Monitor what others are doing on your behalf.** The law makes clear that even if you hire another company to handle your email marketing, you can't contract away your legal responsibility to comply with the law. Both the company whose product is promoted in the message and the company that actually sends the message may be held legally responsible.

This is taken from the Federal Trade Commission's Compliance Guide for Businesses and more information can be found on their website at <http://business.ftc.gov/documents/bus61-can-spam-act-Compliance-Guide-for-Business>

The Federal Trade Commission

The Federal Trade Commission realizes that the debt collection laws that are in place now are old and outdated and don't reflect today's technology, including the internet, cell phones, caller ID or text messages. The Act that you need to pay attention to until other laws are updated is the CAN-SPAM Act.

I have been speaking with the FTC in order to help them to make the necessary changes to the ACT to reflect new technology and will keep you updated through my blog and columns on any new information or updates.

The Fair Debt Collection Practices Act

The Fair Debt Collection Practices Act, which is the law regulating the debt collection industry, does not prohibit the use of email in collecting debts but this is only because the law is outdated and does not specify the form of communication that can be used. When this law was written it was written based on the forms of communication that were available at that time. Times have changed but the laws haven't changed with them. Putting it into perspective, you can use common sense and know that when the FDCPA mentions communication you can include that to mean any new type of communication that is not covered, because it will be when the law is changed. Email is similar to postal mail so apply any postal mail laws to any emails you send out but just be aware that this is a blind spot as of this writing.

Also, remember that the FDCPA only applies to third party collectors, so if you are a business owner or a credit manager working for a company collecting debts, this law does not pertain to you.

Risks of using email

One credit and collections professional I spoke with that has over 25 years experience in this industry thinks emailing invoices is effective but isn't so sure about emailing overdue notices.

Some credit managers have indicated that their staff has been cut due to the implementation of emailing customers with an overdue letter or notice. They don't see an increase in response or payments and feel as though phone calls are still the most effective way to get paid on a past due bill.

Benefits of using email for your business

In Australia, using an email address is allowed as long as you have verified that it is the correct debtors email address, and they must be very careful with employer or work emails because of possible third party access. One credit manager I spoke with in Australia only emails a customer or debtor if they email her first, if that occurs they use that email address to send payment reminders by email and by doing this have increased their payment arrangements with past due customers by more than 15%.

Protecting your business while using email

One of the most common ways larger businesses protect their emails is through encrypting the email messages. To do this you would use software to scramble the messages and the recipient would unscramble the message to read it. In reality, you should not consider email a private or confidential way of corresponding with anyone.

Addressing privacy issues

I recently had a collector email me asking me what the law is on emailing debtors regarding overdue accounts. They say many of their clients have given them email addresses, but they aren't sure if they can legally communicate this way.

Another collector said they receive email addresses from consumers as well and they strongly advise against communicating via emails, but especially unsolicited communications. Some collectors advise consumers that ask to be contacted by email that they are not able to accommodate their request by law. If the collection issue is a commercial collection, many collectors will communicate via email since the Fair Debt Collection Practices Act does not apply.

Unless you take steps to encrypt your email, don't count on email as a confidential way of corresponding with anyone.

Hacking

If you send emails from a home based business or your home for your business, anonymous hackers can intercept it and if you are suspected of any crime, law enforcement can seize your emails with a warrant. Even your ISP may legally read your emails.

Identity Theft

Your main use of email addresses is to contact and communicate with your customers, past due or not. How can you protect your business email from identity theft or from being marked as SPAM by your past due customers that don't want to hear from you by email?

An email thief can convince others that any communication is from a legitimate business. Therefore, business email addresses are often stolen. If you think a communication is from a legitimate company then you are more likely to share personal details with them. This is known as phishing.

Another reason to steal identity is to spam. Most spam will be blocked by the Internet Service Provider (ISP). Someone perpetrating email identity theft sends an email to an individual or firm under the guise of someone legitimate and it is less likely to get blocked. If you have an irate customer who may be unhappy about being contacted by email about a past due debt, they may report your email as SPAM.

What you can do to stop your business from being accused of spamming:

Avoid being blocked yourself by using a different domain registrar to that of the web hosting company.

Think about a second hosting company just in case anything goes wrong and you are blocked - the second account can be your backup service.

Don't share an IP address (shared hosting) - if someone you are sharing with gets blocked for spamming your email will also be blocked.

Sending invoices with email

I recently learned of a company that offers the service of sending collection letters for you through email. They are called Ecollectionletters.com and their service is only used to collect accounts receivables from other businesses. This service is not for the collection of debts from consumers or private parties. If you have a business customer that is not paying you are not comfortable sending a collection letter by email to that customer, this company might be an option for you.

A member of my Credit & Collections Association that is in Romania sends unpaid invoices through email. And some businesses offer online viewing of invoices and customers have the ability to find an unpaid invoice on the web. Other agencies based in the United States are using online websites for skip tracing and some agencies I have talked to have improved their results with more than 25-30% once they started doing this.

Do I need permission?

As a creditor text messages and emails seem to be the preferred and most effective way to increase collections. One company I know has experienced a 12 percent lift in communication by using text messages and email. It seems that email or a text message as an avenue of communication is perceived as less evasive than a phone call, and your customer has the sense of being in control of when and if they respond.

Some collectors I have spoken with obtain consent from their customers before the sale for text messages to be used for future correspondence. They include this wording on the paperwork the customer signs when opening an account, such as the credit application, agreement or contract. The wording is similar to this:

“By signing this document, customer agrees to accept and understands that text messages may be used when servicing their account, including the collecting of debts.”

Others have taken it a step further and have a more detailed outline of how text messages will be used. They always get the customer to sign and acknowledge this provision:

“You authorize us (your company name) to send you (customer name) a text message at any mobile number at which we reasonable believe we can contact you, for any lawful purpose, including but not limited to:

- 1. Suspected fraud or identity theft*
- 2. Obtaining information necessary to service your account*
- 3. Collecting on your account*

4. Notifying you to important issues regarding your account”

Something important to remember if you are thinking of doing this, all messages include a mechanism for the consumer to opt out of receiving further text messages at any time. This is to protect the consumer and the collector, especially since the law does not specifically address text messages being sent as a form of dunning. If you decide to send text messages about bills to your customers, make sure the customer is not charged for the text and that you as the company, incur that charge.

Consider that some cell phones that accept text messages may be “business” phones or provided by a consumers employer, that employer may have the right to view any text messages sent to or received by that company phone. This would violate third party disclosure through the FDCPA. Also, many consumers have phones that multiple family members may use and they could see a message from you that is for their sibling or parent.

Another consideration with text messages is how much space are you going to use to include the mini-miranda or your collection information? It may be difficult to include any legal information along with a debt collection notice on a text message.

You might want to take a look at the Telephone Consumer Protection Act (TCPA) since their requirements may also apply to text messages. The TCPA prohibits any call using any type of automated dialing telephone system to any number assigned through a cellular telephone service. If you are using an automatic dialer, be sure to verify you aren’t breaking any laws.

To avoid getting into trouble there are some steps you can take to protect yourself but not completely since the law is not entirely clear on this issue:

- Obtain consent from the consumer in writing to communicate via email or text
- Clearly state in your emails or text messages that you are a bill collector
- Include your phone number
- Provide opt-out information so a consumer can STOP any emails or text messages
- Use “Free to end user” services so debtors or consumers never incur a charge for your messages.

Sending attachments

Most folks who receive an attachment on an email from someone they don’t know will not open that attachment. I know that I never open an attachment from anyone, unless I know it is coming and I am sure of who is sending it.

Many email attachments are viruses or worms that can immediately infect a computer once opened. Some folks have their email program set up not to accept an email with an attachment, or they may get the email without the attachment. In view of this you might

want to imbed your invoice or notice into the body of the email in order for the recipient to be able to receive and view it.

Sending Statements with email

Some companies send an email “alert” to their customers when they have an invoice or statement ready for viewing. This may be a better alternative for you if you are worried about security or sending attachments. You can send a link to the customers’ invoices and statements, so when they receive the email it is just a link they click on. The link then takes them to a secure page that shows them their payment and order history, a specific invoice or their monthly statement.

If you use accounting software such as QuickBooks, Peachtree or Quicken there is also the option to send statements through that program which might be a better option for you and your customers. Check with your software to see what your options are in regards to sending statements directly from QuickBooks.

Do I need permission?

Legally you don’t need permission but realistically, you should get permission. Not only to protect your business but to keep a good line of communication open with your customer. Just because they are past due right now, doesn’t mean they will continue to be past due or stop being a customer.

To keep good customer relations, ask for permission to use email as a form of communication before you just start emailing invoices, statements or past due notices.

Verifying delivery

Some email programs offer the option of a return receipt, if you are looking for a way to be sure the email was sent and delivered and maybe even opened and read, you might want to look into something like this. There are different softwares available for a fee that will do this for you. I have not used any of them so cannot give you a recommendation but want to give you some information on the few I do know about.

eTracker is a service to confirm your e-mail delivery status. By using eTracker Agent program, you can access to the eTracker service including creating your trackers, tracking the delivery status and getting reader's information.

eTracker Agent will provide the following information:

Does your recipient read your e-mail ?
When/how many times he/she read ?
Recipients' IP address and OS information.

There is also ReadNotify which lets you know when email you've sent gets read, their website is <http://www.readnotify.com/>

As with anything else, research any of these companies before you pay for software, get recommendations and references and talk to others who use the service.

Corresponding through email about past due accounts

When you decide to email past due notices or dunning notices to delinquent customers, you might want to have a form email with options and you may also want to have permission to contact your customer through email for this instance. For example, if you make collection calls and get a “voice mailbox full” message you may want to try emailing and starting out your email by saying that you tried to call but the message box was full.

You can just have a standard email letter and cut and paste it into the body of an email, for example, if someone gave you a credit card payment and it is being denied you could send something like this:

Your credit card payment has been denied. To avoid any interruption in service, please update your billing information right away.

You could then go on to offer them options on updating their billing information and/or making a payment directly by calling you, by mail or online. An example:

1. Your Payment Schedule shows a list of your active services. Services with past-due payments are marked with a past-due alert.
2. Click the "Update your payment method" link in the past-due alert.
3. To edit the credit card you are currently using to pay for your service, click "Edit". To switch to a new payment method, click the "Add a new payment method" link in the upper-right corner of the page. Be sure to click "Continue" to save your changes.

Sending backup documentation through email

This brings us back to the attachment problem. Many people won't open an attachment, so it is best to have a conversation with them to let them know that the backup documentation they asked for is being sent as an attachment to an email. You can then send the email and follow up with a call right away to tell them you sent it and you will hold while they check their email and open the attachment.

Another option is faxing the documents. Many folks receive faxes right on their computer, so when you fax something they can open it and look at it without printing it if they don't need to.

Proof of delivery

When you send out proof of delivery it is most often requested by the customer. They may be claiming they never received the item and so you have to get a proof of delivery from the shipper. Many times you can have the shipper send by email, fax or mail the proof of delivery directly to your customer. The most important part about doing this is following up, making a call as soon as you know the proof of delivery has been sent.

It is sometimes harder for a debtor to claim they didn't get something from you and also didn't get the POD from the shipper, they know they are really stretching it and may end up just trying to avoid you, which is many times a confirmation of guilt, and you know they received the product, the POD and the notices. In my experience in doing this, they will avoid you because they know they are caught in a lie but will mail the check without speaking to anyone in order to avoid a confrontation.

They also many times just avoid you completely and never pay.

Proof of sale or order

Some collectors send emails to debtors only in reply to an email received by a debtor and only if the debtor is asking for a copy of an invoice, a release or paid in full letter or some other document. When they do this, they follow up with the debtor within 30 minutes of sending the email with the attachment with the requested information.

Collectors have a legal obligation to provide information to support a debt or claim of a debt they make to a consumer.

Dunning notices

Imagine the benefits if we could communicate via email. Stamps are p to \$.44, and the aspect of becoming greener by communicating via email would be great. There seem to be many advantages but with many sue happy consumers or attorneys out there, I would be leery of doing this until laws are changed and specific regulation are in place regarding online communications with debtors in any form.

Debt collectors need to be able to utilize new communication technologies to contact consumers because doing so would make their collection efforts more efficient. New technology offers contact methods that will increasingly become the norm. Any restrictions on the ability of collectors to contact consumers using new technologies will increase the amount of debt that goes uncollected. This will be addressed in the next roundtable discussion by the FTC.

When Congress enacted the FDCPA, it did not limit the methods a debt collector could use to contact a consumer except for prohibiting the use of postcards but this was before any new technology. However, it is important to remember that the FDCPA was enacted to prevent debt collectors from engaging in unfair, deceptive or abusive conduct in using

any method to collect a debt. New technology raises questions and issues not considered when the FDCPA was enacted.

Final notice before further action

You can certainly send a final notice letter through email but I wouldn't recommend it. Only because it is much too easy for the debtor to claim they never saw it. Unless you use a company that offers a receipt or proof of delivery on that email, I would send the final notice by priority mail or certified mail and also send a copy through the regular postal mail to ensure delivery.

On the bottom of your final notice include this wording:

“A copy of this notice has also been sent by regular postal mail to ensure delivery”

I have done this in the past when I use priority mail with delivery confirmation and when I have used certified mail and when I have had to take debtors to court and they claimed they didn't receive the notice, the judges in my case have always ruled in my favor, because of this clause. A judge told me to add this to the correspondence and then do it in order to win my cases in court. It has always worked for me and can't hurt for you to try.

Resources

The Federal Trade Commission & Fair Debt Collection Practices Act

<http://www.ftc.gov/opa/2009/02/fdcpa.shtm>

Billtrust

<http://www.billtrust.com/>

API Outsourcing

www.apifao.com

651-675-2605

Ecollectionletters.com

This electronic dunning letter service is certified by the National Association of Credit Management (NACM)

The CAN-SPAM Act: A Compliance Guide for Business

<http://business.ftc.gov/documents/bus61-can-spam-act-Compliance-Guide-for-Business>

Collectors using Social Media in the news:

Philly.com anything & everything philly

Posted on Tuesday, November 2, 2010

By Eileen Ambrose

The Baltimore Sun (MCT)

Taking Charge a CreditCards.com blog

Posted on February 27, 2008

By Connie Prater