Workshop Description
&
Questions for Comment

The FTC staff is hosting the upcoming workshop to examine in depth the present state of the debt collection industry and the effectiveness of existing consumer protections relating to debt collection. The debt collection industry has undergone significant change in recent years. The overall number of debt collectors has grown significantly, and mergers and acquisitions have resulted in the creation of some extremely large collection agencies. In addition, the composition of the collection industry has shifted, particularly over the past decade. In the past, credit issuers generally continued to own the debts that they paid third-parties a contingent fee to collect. In contrast, credit issuers now often sell their debts to "debt buyers," who then collect on the debts for themselves.

Technological innovation also has had an impact on the debt collection industry. Technology has altered the ways that data are collected, stored and exchanged between creditors and collectors; the ways that collectors contact and accept payments from consumers; and even the tools that consumers and businesses use to communicate. For example, some debt collectors now use overseas call centers to collect debts.

Timely payment of debts is important to the functioning of the economy, and the debt collection industry plays a substantial role in helping to make sure that such payments occur. Some debt collectors, however, engage in acts and practices that can cause consumer injury, including payment of amounts not owed, unintended waiver of rights, invasions of privacy, and emotional distress. In some circumstances, consumers can end up even deeper in debt.

The FTC enforces a range of consumer protection statutes that are designed to allow reasonable collection efforts to promote the repayment of legitimate debts, yet also protect consumers. The FTC's chief enforcement tools in regulating debt collectors are the FDCPA and Section 5 of the FTC Act. Enacted in 1977, the FDCPA permits the FTC to bring law enforcement actions against third-party debt collectors who engage in deceptive, unfair, or abusive practices. Consumers also can file actions in state or federal court against third-party debt collectors who violate the FDCPA. Although creditors generally are exempt from the FDCPA when they are collecting their own debts, Section 5 of the FTC Act allows the FTC to bring law enforcement actions against creditors who engage in unfair or deceptive acts and practices in their collection activities.

Given the recent changes in the debt collection industry and the importance of protecting consumers from illegal collection practices, the FTC staff is convening the workshop to learn more about the nature and extent of developments in the debt collection industry and to consider changes in law or policy that might assist the agency in being more effective in fulfilling its core mission of protecting consumers.

Topics for Comment:

1. ***Demographic and Industry Information***

a. Please provide information regarding the composition and size of the debt collection industry, including: (1) in-house debt collectors (i.e., employees of credit issuers who collect on behalf of their employers); (2) collection agencies; (3) collection law firms; (4) debt buyers; and (5) other identifiable industry sub-groups. For each category, if possible, please submit data showing the number of entities in the category; the number of persons employed by entities in the category; and the percentage of overall debts collected by entities in the category.

b. Please provide information regarding consumers subject to debt collection action, particularly any information showing changes in overall numbers of such consumers, and demographic data about the consumers themselves.

c. Please provide information about trends in the nature of the underlying debt subject to debt collection actions (e.g., mortgage, automobile, educational, credit card, personal, etc.).

d. Please provide information detailing recent changes in the extension and use of credit and how, if at all, this has affected the collection of debts.

e. Please provide any other demographic or industry data that may be pertinent to the FTC staff's examination of the debt collection industry.

2. ***Industry Trends***

a. What has caused the growth of the collection industry in recent years?

b. Are a greater number or percentage of consumer accounts delinquent today than in the past? If so, why?

c. Please provide data, particularly from the past ten years, illustrating trends in the number or percentage of accounts in collection with each of the following: (1) credit issuers; (2) collection agencies; (3) collection law firms; (4) debt buyers; and 5) other identifiable industry sub-groups.

d. Has the percentage of credit issuers retaining their collections in-house changed? If so, how and why?

e. Please provide data illustrating how the practice of debt buying has evolved over the years and what impact, if any, it has had on the practice of debt collection. In addition, please discuss the frequency with which debt is sold more than once in the course of collection, the age of debts that are sold, and the impact, if any, that trends in this area have had on businesses and consumers.

f. What incentives exist for credit issuers to sell their debt portfolios rather than hiring contingency debt collectors?

g. Please provide data illustrating how the work that collection law firms do has evolved over the years and what impact, if any, this evolution has had on the practice of debt collection. In addition please provide data, particularly from the past ten years, regarding the number or percentage of debts being assigned to collection law firms relative to the number or percentage being assigned to collection agencies.

h. Has the practice of selling mortgage and other debt portfolios multiple times affected the collection industry and consumers subject to debt collection? If so, how? In responding, please discuss what information about the consumer and the debt is typically transferred by credit issuers to debt buyers, and whether this information is typically transferred from one debt buyer to another if the debt is subsequently resold. Is there additional information that could be transferred that would be useful in verifying the debt, and if so, why is it not routinely transferred?

3. *Debt Collection Practices and Techniques*

a. What new techniques and technologies are being employed in debt collection? Specifically, to what extent are the following technologies, or other similar ones, used in debt collection, and what benefits and costs to businesses and consumers are associated with their use?

   i. Databases containing consumer contact and location information.
   ii. Technology that facilitates storage and transfer of records necessary to identify and locate consumers subject to debt collection, such as those transferred from credit issuers to third-party debt collectors.
   iii. Telephone technology (e.g., cell phones, VoIP, Caller ID, predictive and other automatic dialers, pre-recorded messages, call recording, voice mail, etc.)
   iv. Other communication technology (e.g., overnight mail, email, instant messaging, etc.)
   v. Financial services technology (e.g., automatic withdrawal, ACH transactions, etc.)
   vi. Technology that facilitates outsourcing of debt collection to entities or call centers abroad.

b. Do techniques and technologies employed in debt collection vary depending on the nature of the debt to be collected (e.g., mortgage debt vs. educational debt vs.

credit card debt vs. personal loan debt)? If so, how?

c. Is debt collection becoming more difficult? If so, why? What modifications to existing debt collection practices have been made to improve collection rates?

4. ***Industry Compliance with Applicable Federal and State Laws***

a. Please provide empirical evidence of industry compliance with and efforts to comply with the FDCPA and state debt collection laws.

b. What accounts for the growing number of consumer complaints to the FTC about third-party debt collectors? What accounts for the number of complaints to the FTC about credit issuers' in-house collectors?

c. Are the debt verification efforts of credit issuers and third-party debt collectors (i.e., collection agencies, collection law firms, debt buyers, and mortgage servicers) adequate? If not, how could they be improved? What level of documentation should debt collectors be required to give consumers who dispute debts?

d. Please describe any industry self-regulatory efforts and comment upon their efficacy in improving compliance with federal and state laws governing debt collection.

5. ***Consumer Behavior and Knowledge of Their Rights***

a. Please provide any empirical data regarding consumer awareness of the FDCPA and other laws regulating debt collection practices. How can consumer awareness be increased?

b. Do consumers subject to debt collection actions exercise their rights under the FDCPA?

c. Do consumers subject to debt collection actions know where and how to file complaints regarding potential debt collection law violations?

d. Please provide empirical data regarding consumers' use of the FDCPA's private right of action.

e. Is the behavior of consumers subject to debt collection actions today different than that of consumers in the past? If so, how is it different?

6. ***Legislative Issues***

a. Are any modifications to the FDCPA warranted in light of technological, economic, or legal changes affecting the debt collection industry? If so, what specific modifications are needed and what are the costs and benefits of these modifications for consumers and businesses?

b. In its Annual FDCPA Report to Congress in 2005 (available at: http://www.ftc.gov/reports/fdcpa05/050729fdcparpt.pdf.) the FTC proposed eight amendments to the FDCPA. In October 2006, Congress enacted four amendments to the statute, two of which closely track amendments proposed in the 2005 annual report. Please comment on the costs and benefits to industry and consumers of the remaining six proposals, which are set forth below:

i. The FDCPA should make explicit the standard for clarity required for collectors' notices to consumers.
ii. The FTC should be allowed to issue model collection letters, the use of which would constitute compliance with certain FDCPA provisions.
iii. The FDCPA should clarify that collectors may communicate with a consumer only once after receiving a "cease communication" notice from the consumer.
iv. The FDCPA should expressly provide that a consumer's *oral* dispute is sufficient to require a debt collector to (1) notify credit bureaus ("consumer reporting agencies") of the dispute and (2) prevent the collector from assuming the debt is valid.
v. Collectors should be required to itemize their charges to consumers.
vi. Collectors should be encouraged to provide the name and address of the original creditor of the debt in their first communication with consumers.