

Regulation F: Call-and-Collect vs Digital Communications

Under Regulation F, what are the different rules for phone calls and voicemails compared to digital communications like email and SMS messaging?

Rules Under Regulation F

Call-and-Collect	Digital Communications
<p>No consent required for outbound collection calls</p> <p>However, outbound calling is subject to additional laws and regulations such as the Telephone Consumer Protection Act (TCPA) and the Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act).</p>	<p>No consent required for email or SMS*</p> <p>There is no federal law requiring consent to send email or SMS communications.</p>
<p>The 7-in-7 Rule</p> <p>Debt collectors are prohibited from calling the same consumer more than seven times within seven consecutive days, unless the consumer directly gives consent to receive any additional calls.</p>	<p>No specific frequency standards for emails or text messages*</p> <p>Even without limits on frequency, best practices should still be followed to prevent emails from getting caught in spam and to prevent causing annoyance to consumers so that they decide to opt-out of digital communications.</p>
<p>Prohibited from calling at inconvenient times</p> <p>Calls to consumers may not be placed before 8 a.m. or after 9 p.m. in the consumer's local time zone, because calls made during those times are presumed inconvenient. Additionally, calls may not be made at any time known to be inconvenient.</p>	<p>Inconvenient time restrictions apply</p> <p>But unlike traditional calling, emails and text messages can be set up and scheduled to go out within the allotted time without needing an agent to dial out in realtime to try to reach the consumer.</p>
<p>Prohibited from calling at unusual or inconvenient places</p> <p>Landlines are associated with a place, so debt collectors should determine whether such landlines may be an inconvenient place to call. Debt collectors cannot call a place they know, or should know, may be unusual or inconvenient for the consumer to receive a call.</p>	<p>Email and SMS are not associated with a "place"</p> <p>Since emails and mobile phones are not associated with a place, debt collectors are not prohibited from communicating through such mediums unless they know, or should know, that the media is associated with an unusual or inconvenient place.</p>
<p>Safe Harbor for Limited Content Messages</p> <p>The limited content message (LCM) safe harbor provides a defense to a claim of third party disclosure when a debt collector leaves a voicemail message that may be overheard by a third party.</p>	<p>Safe Harbors for Email and SMS</p> <p>There are multiple safe harbors to protect debt collectors from litigation related to email and SMS, including third party disclosure defenses (like the LCM safe harbor) and a model validation notice that, when followed correctly, protects against claims that the collector's validation notice does not comply with the content and format requirements of the FDCPA and Regulation F.</p>

*Note, some states/municipalities may have different requirements than the federal laws/regulations.

Why Digital Communications Have the Upper-Hand in Debt Collection Compliance Practices

Even with rules and procedures in place, it is possible for errors to occur when trying to follow regulations in a call center. But with digital collection communications, compliance can be built into the code used for consumer outreach and resolution, lowering that operational risk. It is often much easier to update the code when regulations are changed versus re-training and monitoring call center agents.

Ready to learn how digital communications can help your business recover more from happier consumers?

Schedule a consultation today.