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Quantrax Corporation Inc.



**Compliance  
in Debt  
Collection –**  
How your  
collection  
software can  
help

# TABLE OF CONTENTS

Introduction .....	3
Credibility and Value of the Debt Collection Industry .....	4
What is Compliance?.....	5
Internal Compliance .....	6
State and Federal Regulations.....	7
Creditor Requirements .....	8
How do we handle so many compliance requirements?.....	9
Some of the things you could do within a standard collection platform .....	9
Contact Quantrax.....	11

Compliance can be a complex path and a slippery slope for the software companies that build systems for collection management.

## Introduction

Today, the challenges of being “compliant” are numerous. The requirements are complex, and can change rapidly. Often, compliance requirements are not easily understood, and this results in ongoing battles between vendor and user. Compliance standards offer the collection industry a great opportunity to take more responsibility for their actions, and to conduct business more professionally in the interests of all the parties involved. For creditors, collection agencies and consumers it is a simple win-win-win.

How do we navigate this complex area?

This document attempts to explain compliance at a high level, and share Quantrax’s strategy for its technology, as it relates to compliance.



## There are three key areas that question the credibility and significant value of the debt collection industry in North America.

### Credibility and Value of the Debt Collection Industry

Today, there are three key areas that question the credibility and significant value of the debt collection industry in North America.

1. The quality of data that is available to collect a debt
2. A small percentage of cases where there is a lack of professionalism and knowledge at the level of collection representative
3. A fairly significant percentage of the industry is responsible for avoidable mistakes that irritate and alienate the consumer

Let's explain these areas in a little more detail for those who may not be familiar with them.

If the original creditor or collection company is not aware of, or cannot back up the accuracy and history of the transaction that they are trying to recover, the consequences are obviously very serious. Creditors and collection companies can face lawsuits, while some unfortunate debtors have lost their homes as a result of poor data being unknowingly (or knowingly) being used to collect or sue on a debt.

Poor training and the sometimes unavoidable "rogue collector" will lead to complaints from consumers that they were threatened or misled with wrong information. This is a problem that is easily overcome with good training, as in other industries. Are we justified in calling this a small problem? Most certainly yes - the vast majority of the collection industry is extremely responsible, devoting a great deal of time and expense to training and monitoring its employees.

Most phone calls are recorded. Answering machines and letters offer undisputed proof of a violation, and with penalties per occurrence often exceeding tens of thousands of dollars, one has to be certifiably insane to support or encourage bad practices within their collection operation. This is an important fact that most critics of the collection industry consistently seem to ignore.

Finally, we have the existence of bad practices within the collection industry. Even if one has accurate data, the collection industry's "behavior" is often questioned. Calling outside the allowed calling periods or calling the same number numerous times during the same day is an example of the behavior that is criticized by consumers and often targeted by lawmakers. While this type of irresponsible behavior is rare (compared to an enormous number of attempts and contacts initiated by the industry), it is being used to distract us from the great value of the collection industry to states and businesses for whom their past due receivables may be the difference between a profit and a loss. It is this aspect of the industry that this article will focus on, as we consider the different types of "compliance" that are now being presented to the industry.



## Software and computer technology can and must be used to help the collection industry set high standards for compliance.

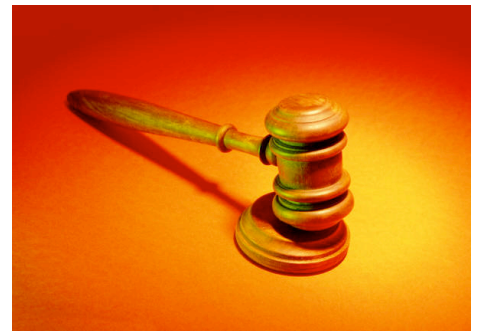
The writer's central theory is that software and computer technology can and must be used to help the collection industry set high standards for compliance, which in turn will lower the number of "non data-related" complaints. This in turn will earn the industry more respect, benefiting creditors, collection agencies and consumers alike.

### What is Compliance?

There are many definitions of compliance. We would like to use the one that simply says "observance of official requirements". In collections, these requirements can be internal, defined by the state or federal government, or be rules that are made up by a creditor.

The *Fair Debt Collection Practices Act (FDCPA)* is a United States statute we are all familiar with. The *Telephone Consumer Protection Act (TCPA)* was passed by the United States Congress in 1991. The *TCPA* was implemented by The United States Federal Communications Commission (FCC). In 2003, the FCC revised its *TCPA* rules in coordination with the Federal Trade Commission (FTC). As expected, the breadth and complexity of the state and federal regulations have grown, as more interested parties have got involved in legislation and enforcement. In many cases, there is no consistent enforcement, and the best defense may be to show that you are trying to comply, and that any mistake was an oversight as opposed to a deliberate error! In the last few years, data security has added a new dimension to the compliance problem. Areas such as PCI compliance have become a part of most collection operations, and are usually handled internally, through the collection software.

Compliance, while designed to help make processes easier and protect different business and individual interests, usually succeeds in obstructing efficient workflows. Collection systems must therefore be carefully designed, to minimize the impact of compliance on efficiency and production targets. This is almost always not the case. As we present these ideas, keep in mind that there is often no middle ground when the person asking for compliance looks at a problem. Those who set the rules know that if there were a middle ground, it would be impossible to get results. We (and you) are often faced with significant expenses to get as close to perfection as we can!



**Collection systems must be carefully designed, to minimize the impact of compliance on efficiency and production targets.**

## **Internal Compliance**

In collection operations, there are many internal standards that are designed to maintain efficiency and ensure that state, federal and creditor requirements are met. Usually, these requirements are interpreted and converted to manual or system controls that users understand.

Some examples are:

- Limit access to data, based on a person's role in the company
- Prohibit collectors from sending certain letters on a specific creditor's accounts
- Prevent taking more than 2 promises without a payment, on a balance less than \$250
- You cannot work accounts in Louisiana or Texas
- Stop sending letters for 2 weeks to a weather-affected area, because of damage to personal property within the region
- Ensure sensitive financial information is encrypted and only viewed by authorized individuals



These options can be a part of a commercially available collection platform that can be controlled and set up by your company, to handle all of these circumstances. If the features are a part of the base system, no custom programming is needed, but you have to make decisions and set up a knowledge base accordingly.

NOTE: The “knowledge base” is an area of an “intelligent” software package where your expert’s knowledge and your business rules are secured and stored; interacting with the collection software to make the right decisions as each account is worked. The number of internal rules you define depends on the type of creditors and your management style.

State and federal regulations can be handled through well-designed collection software, without any custom programming changes.

## State and Federal Regulations

State and federal regulations will usually take a very long time to change or implement. This is an area that does not change a great deal at short notice.

Some examples of state or federal regulations are:

- You cannot make phone calls before 8.00 AM
- You must not work accounts or send letters if the debtor is in a state you do not have a license to work in
- You must warn a consumer if you are recording calls
- You must obtain a debtor's permission before you call their cell phone
- You must make an attempt at the home number and wait a certain number of days before you try a work number
- You may need to have different rules for certain state holidays
- Some states may define the maximum number of times you could attempt or contact a phone number, a type of number (e.g. the work number) or the consumer in one day or in a given period. Some states may treat a letter as a phone call



These are also examples of situations that can easily be handled though well-designed collection software, without any custom programming.

## Why are creditors (and states) setting the standards for operational behavior within the collection industry?

### Creditor Requirements

This is probably the area that will offer you the greatest internal and technical challenges. Because they give you their business, many creditors will feel that they can demand work standards and compliance rules that may be difficult to meet or even unrealistic. To be fair to the creditors, the fear of lawsuits has added to the pressure on them, and it is likely that in the short term, compliance will become a more important evaluation item than collection percentages!

One may ask, "Why is it that creditors (and states) are setting the standards for operational behavior within the collection industry"? Would IBM, Microsoft or Boeing ever permit us to tell them how they should build their software and airplanes, or run their businesses?

Why is the collection industry being told how it should conduct business? Is it because the collection industry, in spite of several warnings, has not come up with a responsible and published code of conduct for its membership? Would this have made a difference? Would they today be perceived as more professional, responsible and accountable? Of course! But they have not done that, and may now be paying the price for that inaction. Fortunately, it is not too late to correct the course that they are on. It will take some good minds, unity, determination, technology changes and a practical dialog with regulators and consumer groups.

What are some examples of creditor-mandated compliance that we are now seeing?

- There must be 4 attempts on an account within the first 40 days
- The first 3 phone calls on an account must be at different times in the day (morning, afternoon and evening)
- There cannot be more than a specified number of calls to a debtor on a single day, or during a given period of time. There are limits per phone number and type of number too (Home, work, cell or 3rd party)
- Cell phones cannot be dialed through an automated dialer, even if an agent is always available to handle a connected call
- Cell phones must be dialed manually, but accounted for in the maximum calls logic
- If there are several possible numbers for a consumer, you can attempt those numbers a total of say 5 times in one day, but you can only leave a total of 3 messages on all of the numbers you call



It is our experience that creditor-mandated compliance is usually more complex than any other type of requirement. Rules can be changed quickly and you are not given much time to develop the changes. Creditors are usually not concerned about how much it will cost, or how difficult the changes will be for you to implement. They want it done, and they want it done now. If a collection agency cannot meet the requirements,



**Our goal must be to create a “technology infrastructure” that will handle all of the known and likely circumstances that we may face in the future.**

they will probably be penalized or fired. They make it very simple, specially the larger creditors!

### **How do we handle so many compliance requirements?**

The area of compliance is a moving target that cannot be handled without a long-term systems approach and strategy. Rather than tackle every possible requirement that creditors and states could ask for, our goal must be to create a “technology infrastructure” that will handle all of the known and likely circumstances that we may face in the future. Depending on the requirements, users would simply turn on the required area of compliance and set up the parameters based on the specific creditor. We must be able to do this quickly without waiting for custom code to be developed.

Most of the challenges we face are likely to be in the area of creditor-level compliance. We believe that sophisticated collection operations dealing with top-tier creditors will need most if not all of the controls discussed below.

### **Some of the things you could do within a standard collection platform**

With the many years of investment in collection technology, you should be able to do the following within your base collection platform (without the need for custom modifications).

- Restrict access to one creditor’s accounts based on individuals, or groups of users (data security is vital to a creditor)
- Only link accounts within a single creditor
- Have real-time cell phone scrubbing incorporated into the system
  - Cell phone databases are available and cell phones can be immediately identified as phone numbers are changed or added by users
  - Permission obtained to call a cell number must be easily documented
- Update existing cell numbers and landlines from a ported numbers list obtained from a supplier of that data
- Define all phone numbers as being a home, work, cell or third party number
  - This will allow you to isolate different numbers in a calling list
- Set a requirement to obtain and document a consumer’s permission to call any number based on client’s request
- Identify a cell phone so you can stop these numbers from being called “predictively”
- Use your collection and dialer software to set up rules for limiting calls to a single phone number, a type of number (home, work or cell), a debtor or a third party (non-debtor numbers)
  - The limits can be by day or for a period
  - The rules should be flexible by creditor

Today, compliance is not an option; it is standard operating procedure that must be a part of any collection platform.

- ☑ Count a cell phone call placed outside the dialer system using a desk phone
  - Track that by analyzing the collector's documentation within the account

- ☑ Control messages
  - The dialer software will know when a message has been played, but collectors can also leave messages
  - Track and count messages by analyzing the

collector's documentation within the account

- ☑ Control the maximum number of calls, counting and tracking calls as soon as they are placed
  - Before any call is launched, the history for the day (or period) and the calling rules must be checked
  - When the maximum has been reached for a type of number or the debtor (or third party), the call must be stopped
  - This logic will usually be a part of your collection software and must be integrated real-time with your dialer platform
- ☑ Manage the "allowable calling period", which is not as simple as making sure you only make a phone call between 8 AM and 9 PM in the debtor's state
  - What if different phone numbers for the consumer are in different states?
  - What if there are 800 numbers?
  - What if some parts of a state do not observe DST?
  - Software must be flexible enough to handle this complex area



The above is a fairly substantial body of work that will address most of today's more complex compliance needs. With the appropriate software, the users could quickly adapt to new rules, without the need for programming changes. We need a very "systems-oriented approach" to the area of compliance. There are many features at the state and creditor level that could offer even more flexibility. This type of collection platform (and dialer) arguably offer you some of the best options for managing compliance at all levels.

## How will your collection technology manage compliance today and into the future?

### Contact Quantrax

If you are a collection operation, how will your collection technology manage compliance today and into the future? Massachusetts recently passed legislation along the lines of preventing the “Initiating a communication with any debtor via telephone, either in person or via text messaging or recorded audio message, in excess of two such communications in each seven-day period”. If your

system does not have the flexibility to handle this requirement, your vendor will probably offer you custom code for a fairly substantial fee.

Tomorrow, it will be California, Bank of X or ABC Hospitals with their own parameters. That will be even more expensive, time-consuming custom work. Standard collection technology has to get much stronger and smarter as we try to address and win the compliance war. Today, compliance is not optional; it is standard operating procedure that has to be a “standard feature” of any quality collection technology platform.

For more information about systemic compliance or Quantrax, please visit their website

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