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New FCC Rules for Revocation of Consent under the TCPA

On February 16, the Federal Communications Commission (FCC) released its report and order concerning revocation of consumer consent under the Telephone Consumer Protection Act (TCPA). The FCC order codified some of the agency's rulings on consent revocation and imposed new rules concerning revocation. For calls and texts governed by the TCPA, many such calls/texts require consent from the called party. The long-standing rule has been that once given, the consent can be revoked in any reasonable manner. The FCC did not change that rule but added specific requirements, including the following:

- Callers/texters may not designate an exclusive means for consent revocation.
- Use of an automated key press opt-out mechanism in a prerecorded voice message or a "stop," "quit," "end," "revoke," "opt out," "cancel" or "unsubscribe" reply in a text message is a reasonable means of revoking consent.
- Calling and texting parties will have 10 business days to implement consent revocation and not robocall or robotext the person who revoked consent.
- Revocation of consent for a particular type of calling is applicable to both robocalls and robotexts to that phone number. If a consumer with a phone number on the National Do Not Call Registry has provided consent to a particular entity and later revokes that consent, the entity may no longer make any telephone solicitations (regardless of the technology used) to that phone number.

The foregoing changes are not effective until six months after publication in the *Federal Register* that the Office of Management and Budget has completed its required review, allowing a business to make changes to accommodate the new rules. Finally, the February 16 FCC order also seeks comment on a proposed rule that would require an automated opt-out mechanism for every call with an artificial or a prerecorded voice message made to a residential line. Currently, such a mechanism is required only if the caller does not have prior express consent.

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