

Insights, News & Events

COURT STRIKES DOWN NEW ROBOTEXT AND ROBOCALL RULES AT THE 11TH HOUR – WHAT SHOULD BUSINESSES DO NOW?

Insights
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Just one business day before new robotext and robocall rules requiring one-to-one consent and “logically and topically” related requirements were set to take effect, a federal appeals court vacated the requirements and provided businesses with some breathing room. The 11th Circuit Court of Appeal’s January 24 ruling scuttled FCC rules intended to regulate the Telephone Consumer Protection Act (TCPA) for the 21st century, ruling the agency had gone too far and exceeded its authority. Almost simultaneously, the FCC – under new leadership established by the Trump administration – took the unusual step of postponing its rule for at least a year. What do businesses need to know about these developments? Here’s a quick summary and four action steps to consider.

Decision in a Nutshell

In *Insurance Marketing Coalition Ltd v. FCC*, the 11th Circuit determined that the FCC had exceeded its statutory authority because the “new consent restrictions impermissibly conflict with the ordinary statutory meaning of ‘prior express consent.’”

- The Court found that “to give ‘prior express consent’ to receive a robocall, one need only ‘clearly and unmistakably state, before receiving the robocall, that he is willing to receive the robocall... 1:1 consent is not required.”
- The Court also found the restriction requiring businesses to have received consent that was “logically and topically

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related with the interaction that prompted the consent” was also unlawful. It said this restriction also “impermissibly alters what it means to give ‘prior express consent.’”

The Court then remanded the rule back to the FCC for further action.

What Else Happened?

The agency issued its own Order on the same day, stating that the rule regarding one-to-one consent and “logically and topically” related requirements was to be postponed until January 26, 2026, or until a new Public Notice is filed. The FCC cited to the litigation pending in the 11th Circuit and its desire not to burden the parties when a judicial review was pending as part of the reason for providing a “limited postponement.” Additionally, the FCC noted that public submissions it received from commenters persuaded them the agency that allowing the rule to take effect would impose significant burdens on businesses.

What Should Your Business Do?

Businesses should continue to monitor the TCPA Rule space for new changes, as this past week demonstrates things can change quickly. It is important to note that TCPA compliance is the subject of frequent litigation and penalties are costly – \$500 per violation, and \$1,500 per violation if considered willful. Here are four steps for you to consider:

- **Ensure compliance with existing Prior Express Written Consent rule:** Review your marketing consent forms to ensure they meet all the requirements for PEWC.
- **Understand that the TCPA requires consent to be clear and conspicuous – even without the new rule.** If your consent leaves doubt as to who is authorized to send texts or make calls or the subject of those calls this can be problematic.
- Ensure that you are following the TCPA and applicable state laws regarding the **time limitations** for sending of texts and calls.
- **Prepare for compliance with the new TCPA rules** regarding revocation of consent that are scheduled to go into effect on April 11, 2025, which as of now, remain in place. [You can read more about them here.](#)

Conclusion

If your company utilizes robotext or robocalls with an ATDS or prerecorded or artificial voice message and you have questions about your compliance efforts, please contact your Fisher Phillips attorney, the author of this Insight, or anyone of the Fisher Phillips [Consumer Privacy Team](#). For more tailored resources and ongoing guidance, [our new FP U.S. Privacy Hub](#) offers up-to-date insights, FAQs, and compliance solutions to help you navigate the modern consumer privacy landscape with confidence.

Fisher Phillips will continue to monitor developments in this area and provide updates as warranted, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information direct to your inbox.