

THE TCPA REGULATIONS ARE COMPLICATED- ENSURING AND MAINTAINING COMPLIANCE IS NOT

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OVERVIEW

Over the past 24 months, there has been heightened focus around TCPA compliance. Since its inception in 1991, the TCPA was initially established to regulate the use of prerecorded messages and auto-dialers. Under the TCPA, many companies have collectively paid hundreds of millions of dollars in fines, and dealt with the operational and legal havoc that has been brought about by the regulation.

Additionally, over the past 24 months, there has been ever more focus on TCPA for two primary reasons:

- The regulation was updated in July of 2015, which further clarified certain definitions, including focus around what constitutes an auto-dialer, consent, and reassigned numbers. Incidentally, a few of these clarifications created more ambiguity, according to leading experts in the legal compliance community.
- The number of companies focused on various solutions to help consumer-facing companies avoid fines and improve operational efficiencies has increased. As always with competing solutions comes differing approaches, and ultimately confusion, on the part of the company attempting to ensure compliance.

At this point, the regulation is defined and has been vetted the various stakeholders impacted by TCPA, however questions and ambiguity still exist at some level; What is an “Automatic Telephone Dialing System?”, “What is the true definition of the “Called Party” in regards to reassigned numbers?, and What is considered “Prior Express Consent.”

CHANGES TO THE TCPA

The primary tenets of TCPA are:

- Businesses cannot use an auto dialer to call or text wireless phones. Certain exemptions exist (ie. prior express consent)
- Prerecorded or artificial voice calls to landline residential telephone numbers are not allowed without prior written consent. Certain exemptions exist (i.e. emergency calls, tax exempt nonprofit organizations, calls for non-solicitation, and healthcare calls subject to HIPPA)
- Consent must be provided and maintained
- The dialed party must still have ownership of the wireless phone

OVERCOMPLICATING COMPLIANCE

Recently, the number of companies, compliancy solutions, and approaches have mushroomed and, unfortunately, caused further confusion and inflated price points. There have been numerous companies with limited authoritative telephony data assets attempt to pivot in what they see as a lucrative opportunity to generate additional business.

Other solution providers have over-complicated the process towards TCPA compliancy by over-engineering the process and sensationalizing TCPA through repeated webinars, conferences, and endless blogs. Understanding TCPA is absolutely necessary, but you should understand both aspects of the equation; the law and compliance as well as the primary tenets related to the operational processes and access to the needed telephone data sources to ensure compliance.

Again, companies must fully understand all the regulations and exceptions related to TCPA. This should be provided by experienced legal counsel. However both issues should be looked at independently; **the law** and **ability to ensure compliance through proper telephone identification and verification sources**.

Therefore, you need to ensure you are working with a TCPA solutions provider that has authoritative and comprehensive telephony data assets and has been helping companies in this area for several years and not just as recently as 2013. (2013 is the year in which TCPA fines exploded.)

A solutions provider must provide the following intelligence:

- Determine phone type; landline or wireless
- Verify the phone has not been reassigned
- Verify phone ownership- the person who provided consent still owns the phone
- Properly maintain consent

With access to quality authoritative data sources to meet the above requirements, a company can safely navigate the TCPA regulatory issues.

*<http://webrecon.com/out-like-a-lion-debt-collection-litigation-cfpb-complaint-statistics-dec-2015-year-in-review/>

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Our long-term relationships, built from years of consistently and reliably delivering elite data solutions, drive essential business functions in identity verification, fraud and risk, marketing, analytics, multi-media, and compliance applications.

Infutor's Senior Leadership team includes key executives from companies including TransUnion, Experian, Neustar, and Acxiom. Together they bring a wealth of experience in data sourcing, linkage, and database applications.



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