

One-to-One Consent Rule for TCPA Prior Express Written Consent Frequently Asked Questions

What is the FCC's new one-to-one consent rule?

In December 2023, the FCC adopted new rules in the [Second Report and Order](#) to combat unwanted and illegal telemarketing calls and texts, including a rule that closed the lead generator loophole. The rule expressly prohibits lead generators, texters, and callers from using a single consumer written consent to inundate consumers with unwanted telemarketing robocalls and robotexts from dozens of sellers when consumers visit comparison shopping websites. The Commission made it unequivocally clear that each caller and texter soliciting consumers' business must obtain a consumer's prior express written consent prior to making such robocalls or robotexts.

Under the Commission's new one-to-one consent rule—which takes effect on January 27, 2025—the Telephone Consumer Protection Act's (TCPA's) prior express written consent requirement applies to a single seller at a time. In other words, robocallers and robotexters must obtain a consumer's written consent for marketing messages for each seller. For example, on a comparison shopping website, the consumer could check a separate box for each seller they wish to receive a robocall or robotext from. In addition, such consent must be in response to a clear and conspicuous disclosure that the consumer will receive robocalls or robotexts from each selected sellers, and the content of ensuing robotexts and robocalls must be logically and topically related to the website where the consumer gave consent.

If you have questions about the one-to-one consent rule, please reach out to Mika Savir of the FCC's Consumer and Governmental Affairs Bureau, Consumer policy Division at mika.savir@fcc.gov or 202 418-0384.

Why did the FCC adopt the one-to-one consent rule?

In reviewing the record, the FCC found that lead generated communications were a large percentage of unwanted robocalls and robotexts and often rely on flimsy or non-existent claims of consent. The FCC also found that, while comparison shopping websites that involve lead generation can benefit consumers by enabling them to quickly compare goods and services and discover new sellers, the record clearly demonstrated that new protections were necessary to stop abuse of its established prior express written consent requirement. In addition, this rule is consistent with the Federal Trade Commission's Telemarketing Sales Rule, which requires one-to-one consent as well.

Does the new FCC requirement for one-to-one prior express written consent apply when a third party is added to an ongoing live telemarketing call?

The Commission explained in its [Second Report and Order](#) that the new one-to-one consent rule would not affect the practice of connecting a third-party agent to a prospective customer on a telemarketing call that is not autodialed and does not include a prerecorded or artificial voice message. Indeed, the new one-to-one consent rule has no bearing on such calls. It only applies to calls made using an autodialer or prerecorded or artificial voice. However, if the third party seeks to reconnect with a consumer following this initial live call, the caller must obtain the necessary consumer consent if its future calls will be placed using an autodialed and/or prerecorded or artificial voice.

Where can I find the *Second Report and Order*?

The *Second Report and Order* is available at:

<https://docs.fcc.gov/public/attachments/FCC-23-107A1.pdf>. The Federal Register

Summary of the *Second Report and Order* is available at:

<https://www.federalregister.gov/documents/2024/01/26/2023-28832/targeting-and-eliminating-unlawful-text-messages-implementation-of-the-telephone-consumer-protection>.

Background on the Telephone Consumer Protection Act (TCPA) When was the TCPA enacted, and what is its purpose?

In 1991, Congress enacted the Telephone Consumer Protection Act (TCPA), codified in section 227 of the Communications Act of 1934, as amended, [47 USC § 227](#), to address certain practices considered to be an invasion of consumer privacy and, in some instances, a risk to public safety. The TCPA generally prohibits making any non-emergency call using an artificial or prerecorded voice to any residential telephone line, wireless telephone number, or certain other telephone numbers (for example, a 911 line, other emergency telephone numbers, or a patient room at a hospital) without the prior express consent of the called party. The TCPA also prohibits making any non-emergency call using an automatic telephone dialing system (also referred to as an autodialer) to certain telephone numbers—including any wireless telephone number—without the prior express consent of the called party.

What steps has the FCC taken since enactment of the TCPA?

The TCPA generally requires callers to get consumer consent before making certain calls to consumers using an autodialer or an artificial or prerecorded voice. FCC rules require prior express written consent for all telephone calls using an artificial or

prerecorded voice to deliver an advertising or telemarketing message to wireless numbers and residential lines (such written consent is also required for calls to certain telephone numbers, including wireless numbers, using an autodialer). In addition, in a [2003 Order](#), the Commission explained that the TCPA applies to both voice calls and text messages.

The FCC's most recent actions have centered on a consumer's right to revoke consent when they no longer want robocalls or robotexts and on the growing use of artificial intelligence (AI) in calling and texting. In a 2024 [Order](#) the Commission took steps to protect consumers by strengthening consumers' ability to revoke consent to receive robocalls and robotexts and also required that callers and texters implement such requests in a timely manner. More recently, the Commission released a 2024 [Notice of Proposed Rulemaking](#) proposing steps to protect consumers from the abuse of AI in robocalls.

Are there written consent requirements to protect consumers whose telephone numbers are registered in the Do-Not-Call registry?

The Commission's Do-Not-Call (DNC) rules also protect consumers from unwanted telephone solicitations or telemarketing calls when the consumer has added their number to the National [DNC Registry](#). These additional protections apply to all telemarketing calls, regardless of the technology used to make the call or whether the call is to a wireline or a wireless number. However, even if a consumer's telephone number is listed in the DNC Registry, the consumer can provide prior express written consent to receive telemarketing calls or texts from a particular seller.

To obtain prior express invitation or permission for a telemarketing call to a DNC line, the caller must meet the requirements of section 64.1200(c)(2)(ii) of the Commission's rules: "Such permission must be evidenced by a signed, written agreement between the consumer and seller which states that the consumer agrees to be contacted by this seller and includes the telephone number to which the calls may be placed."

Consumer Help Center

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