

New FCC Rules Limit When You Can Send Commercial Calls, Texts

February 22, 2024

As part of its long-standing effort to give consumers tools to limit unwanted commercial calls and texts, [the Federal Communications Commission has adopted an order](#) that clarifies the obligations of calling parties when consumers seek to opt out of receiving calls under the Telephone Consumer Protection Act.

Process for opting out

Under the order, these new requirements will apply to requests to revoke consent for calls and texts:

- A calling party that initiates calls and texts must honor any request made using an automated, interactive voice or key press-activated opt-out mechanism offered during a call.
- If a called party replies to a text with a message that includes “stop,” “quit,” “end,” “revoke,” “opt out,” “cancel” or “unsubscribe,” the reply must be treated as a revocation of consent for future messages.
- Even if a reply to a text does not use any of the specified words, the calling party must treat the called party’s reply as revoking consent for future messages if a reasonable person would understand the called party’s words to have conveyed a request to revoke consent.
- If a text is sent via a mechanism that does not permit replies, the text must include a statement explaining that replies are not permitted for technical reasons, along with a clear and conspicuous description of reasonable alternative ways to revoke consent.
- Any calling party must honor a valid request to revoke consent no later than 10 business days after the request is made.
- Revoking consent for voice calls also revokes consent for texts and vice versa.

A calling party may not limit the ways that consumers can revoke consent to those listed in the rules, but instead must accept any reasonable method that a consumer chooses to use, including “voicemail or email to any telephone number or address at which the consumer can reasonably expect to reach the caller,” even if using that number or address has not been designated as a way to revoke consent. The order establishes specific criteria that the FCC will use in determining whether a valid request was made, which will be evaluated based on the totality of evidence.

A calling party that sends text messages still is permitted to send a single text following the revocation request to acknowledge the request has been received. Acknowledgments sent within five minutes of a request will be presumed to fall within the consumer’s previous consent, but the calling party must demonstrate why the delay was reasonable if the acknowledgment takes longer than that.

Other opt-out issues

The FCC’s order clarifies that consumers whose numbers are on the National Do Not Call Registry but have consented to calls from specific companies can revoke their consent. In addition, the order concludes that consumers can revoke their consent to

receive informational calls or texts, such as balance alerts from banks or notifications from delivery companies.

The order also clarifies that revocation of consent for calls or messages that require consent does not revoke consent for other calls or messages. Consequently, if a consumer has consented to receive marketing messages from a caller but also receives informational messages that do not require consent, such as delivery notifications, revoking consent for the marketing messages will not revoke consent for the informational messages. However, if a consumer revokes consent for informational messages, that revocation must be treated as also revoking consent for marketing calls.

In addition, if a consumer is receiving multiple types of informational messages from a single party, the FCC will permit the calling party to send a single text requesting clarification of whether the consumer meant to revoke consent for all or some of those messages, instead of an acknowledgment text. These messages may not contain any marketing or promotional content. If the consumer does not reply to the text, the calling party must treat the revocation of consent as covering all types of messages. This exception applies only to informational messages.

Implementation

These rules will go into effect six months after the federal Office of Management and Budget has completed its review under the Paperwork Reduction Act. This process typically takes six months to a year, and it cannot begin until the order is published in the Federal Register, which likely will occur in March 2024. After the review is complete, the FCC will issue a public notice announcing the effective date of the rules.

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