

Informational vs Promotional Calls and Texts

Applying TCPA rules to informational communications

Businesses often rely on calls and texts to communicate with customers. Understanding the rules governing these communications, including those differentiating informational vs promotional calls and texts under the Telephone Consumer Protection Act (TCPA), is essential for both consumers and businesses.

Understanding Informational Calls and Texts

Informational communications are designed to provide updates or important information without any promotional intent. Examples include:

- **Appointment Reminders:** Confirming or updating scheduled meetings.
- **Delivery Notifications:** Providing shipment status updates.
- **Emergency Alerts:** Notifying about urgent situations like severe weather.
- **Account Security Messages:** Alerting about changes or potential issues with accounts.

TCPA Regulations for Informational Communications

While its primary focus is telemarketing, the TCPA also addresses informational calls and texts:

- **Autodialed Calls and Texts to Cell Phones:** Informational calls or texts made using an autodialer to a cell phone require prior express consent from the recipient. This means the consumer provided their phone number to the business sending calls/texts absent instructions to the contrary. For example, a consumer gives their phone number when signing up for a service as a regular part of the sign-up process. This would serve as express consent and does not require the same types of disclosures that are necessary for marketing calls/texts.
- **Prerecorded Messages to Landlines:** Informational calls to residential landlines using a prerecorded or artificial voice are permissible without prior consent, provided they are non-commercial and do not include any unsolicited advertisements.

Key Considerations for Businesses

To ensure compliance with the TCPA when sending informational communications:

Obtain Prior Express Consent: Before sending autodialed informational calls or texts to cell phones, ensure the phone number was provided via the consumer and was not obtained via data appends or some other source.

Provide Identification: Clearly state the caller's name, the business or entity on whose behalf the call is made, and a contact number or address.

Honor Opt-Out Requests: If a recipient requests not to receive further communications, promptly honor this request.

- The FCC's revocation of consent rules in effect as of April 2025 require companies to process and honor do not call or do not text requests within 10 business days, as opposed to the previous 30-day requirement.
- Apply the opt-out to both informational and future marketing calls/texts.
- Maintain records of such requests for at least five years.

Avoid Mixing Content: Do not combine informational content with promotional material in the same message, as this may change the consent requirements.

If a message includes any promotional content, it shifts from informational to marketing, necessitating your explicit consent. For instance:

- **Informational Message:** "Your appointment is confirmed for March 3rd at 10 AM."
- **Promotional Message:** "Your appointment is confirmed for March 3rd at 10 AM. Check out our new services at a discount!"

Staying Informed on the TCPA

TCPA regulations can evolve, and interpretations may change based on legal rulings.

Understanding the distinction between informational vs promotional calls and texts ensures that consumer consents and preferences are respected and that businesses operate within legal boundaries.