

# FCC Enforcement Bureau Chief Praises PayPal After Original TCPA Terms Drew Criticism

June 30, 2015

Two weeks ago, the Chief of the Enforcement Bureau of the Federal Communications Commission (“FCC”) sent a [letter to PayPal, Inc.](#) (“PayPal” or “Company”) stating that the Company’s recent amendments to its User Agreement did not comply with federal law. Although the letter did not threaten enforcement action, the FCC has the power to impose fines for TCPA violations, after issuing citations to non-carriers such as PayPal.

According to the FCC, PayPal’s User Agreement would have violated the Telephone Consumer Protection Act of 1991 (“TCPA”) because the new policy would have allowed customers to receive autodialed, prerecorded or artificial voice calls and text messages. The TCPA specifically restricts these kinds of calls unless a company obtains a customer’s “prior express written consent” [47 C.F.R. 64.1200\(f\)\(8\)](#). PayPal’s new User Agreement was set to become effective on July 1, 2015.

A few days after PayPal received that letter from the FCC, Senators Ed Markey (D-Mass.), Al Franken (D-Minn.), Ron Wyden (D-Ore.), and Robert Menendez (D-N.J.) also [wrote to the Company](#) urging it to reconsider its telemarketing policy and requesting a response by July 7, 2015.

Earlier this week, PayPal revised its User Agreement and explained that the language it initially used did not “clearly communicate” how the Company intended to contact customers. The revised User Agreement now specifies that the Company will use prerecorded robocalls primarily to collect debts owed to PayPal, assist with fraud prevention and keep customers informed about their account activity.

The User Agreement also plainly states that customers must give their prior express written consent to receive autodialed or prerecorded calls or texts and that they have the opportunity to “opt-out” of receiving autodialed or prerecorded calls or texts at any time, bringing the policy in line with the TCPA.

[PayPal’s User Agreement](#) now provides that:

- The Company will not use autodialed or prerecorded calls or texts to contact its customers for marketing purposes without prior express written consent.
- Customers can continue to enjoy its products and services without needing to consent to receive autodialed or prerecorded calls or texts.
- The Company respects its customers’ communications preferences and recognize that their consent is required for certain autodialed and prerecorded calls and texts. Customers may revoke consent to receive these communications by contacting PayPal customer support and informing the Company of their preferences.

In response to the PayPal changes, the FCC's Enforcement Bureau Chief [praised PayPal](#) for honoring consumer choice and making significant yet welcome improvements to its telemarketing practices and disclosures.

On June 18, 2015, the FCC adopted a [Declaratory Ruling and Order](#) reaffirming a number of the TCPA's requirements. For more information about the Commission's TCPA rules and enforcement, we encourage you to join our upcoming webinar where we will be reviewing the FCC's recent actions and what they mean for businesses who must comply with the TCPA.