FCC Issues One-Year Limited Waiver of New TCPA Consent Revocation Rule

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On April 7, 2025, the FCC's Consumer and Governmental Affairs Bureau (CGB) released an order announcing a one-year delay of a new implementing rule for the Telephone Consumer Protection Act (TCPA) related to consumers' ability to revoke consent to receive autodialed and/or prerecorded calls and texts. The order was issued just days before the rule was scheduled to take effect on April 11. Below we summarize CGB's action and explain what it means for businesses going forward.

Background

In February 2024, the FCC voted to adopt a series of new and amended rules that were intended to simplify the process for consumers to revoke consent to receive calls and texts regulated by the TCPA. Among these changes was a new regulation – 47 C.F.R. § 64.1200(a)(10) – which stated in part that call recipients could revoke consent "using any reasonable method to clearly express a desire not to receive further calls or text messages from the caller or sender." The new rule also established the following methods of revoking consent that the FCC deemed to be "reasonable means per se," and if used, "that consent is considered definitively revoked and the caller may not send additional robocalls and robotexts":

- Using an automated, interactive voice or key press-activated opt-out mechanism on a call;
- Using the words "stop," "quit," "end," "revoke," "opt out," "cancel," or "unsubscribe" sent in reply to an incoming text message; or
- Pursuant to a website or telephone number designated by the caller to process opt-out requests.

The as-written rule would apply to revocation requests for both marketing and informational calls and texts that require TCPA consent. The FCC did acknowledge, however, revocation requests would not necessarily extend to "exempted informational" calls and texts (e.g., certain package delivery and healthcare-related messages), unless a request was made in direct response to an exempted message.

The FCC also recognized at the time that this new rule would require "an extended period of time to ensure that affected parties can take measures to implement these changes," and had initially delayed the effective date until six months after the rule was approved by the Office of Management and Budget. That approval was announced in October 2024, thereby triggering April 2025 as the deadline for businesses to comply.

Limited Waiver Order

In this new order, CGB found that there was good cause to issue a limited waiver of the so-called "revoke all" provision of 64.1200(a)(10), due to "more evidence [in the record] that callers require additional time to ensure that they can process revocation requests sent in response to one business unit's call or text to ensure that all calls and texts from that business that require consent stop upon receipt of a revocation request." Accordingly, CGB granted "a limited waiver delaying the effective date of section 64.1200(a)(10) of the Commission's rules ***to the extent the rule requires callers to treat a request to revoke consent made by a called party in response to one type of message as applicable to all future robocalls and robotexts from that caller on unrelated matters***."

What Businesses Need to Know

The phrasing in the waiver order is crucial for understanding what this order did, and what it did not do. Although CGB stated that the effective date of 64.1200(a)(10) would be delayed until April 11, 2026, it was also clear that such delay is only relevant for the "revoke all" requirement in the rule. One could therefore reasonably infer that the other provisions of 64.1200(a)(10) *will* become effective as scheduled on April 11, 2025. Those other provisions include the following:

- The "reasonable means per se to revoke consent" outlined above;
- The requirement for texters, if using "a texting protocol that does not allow reply texts, [to] provide a clear and conspicuous disclosure on each text to the consumer that two-way texting is not available due to technical limitations of the texting protocol, and clearly and conspicuously provide on each text reasonable alternative ways to revoke consent";
- The mandate to honor all reasonable opt-out requests within a reasonable time not to exceed ten (10) business days from receipt of the request; and
- A prohibition against callers and texters designating an exclusive means to request revocation of consent.

Additionally, CGB was clear that other rule changes adopted in the February 2024 were unaffected by the limited waiver for 64.1200(a)(10). These include:

- A new regulation instructing that, in the event of a dispute about whether a particular opt-out request was conveyed in a "reasonable manner," the finder of fact must apply a "totality of circumstances analysis," subject to a rebuttable presumption that the consumer has revoked consent if the consumer can produce evidence that the request was made; and
- An amendment to the FCC's Do Not Call rules that shortens the allowable time to process an internal do-not-call request from 30 days to 10 business days.

For additional guidance about how this rule may impact a particular business or industry, we encourage our clients to contact their usual Kelley Drye attorney.