

ALERT

April 2025

Stop Texting/Calling Me! TCPA New Revocation Rules Partly In Effect On April 11, 2025

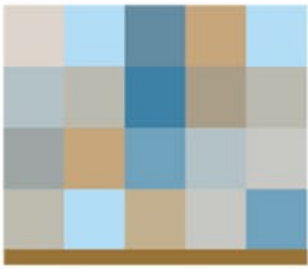
By: Terese L. Arenth

A reminder that on April 11, 2025, new rules go into effect for revocation of consent under the Telephone Consumer Protection Act (TCPA). On April 7, 2025, the FCC issued an Order which partially delays enforcement of one of the more complex aspects of the new rules.

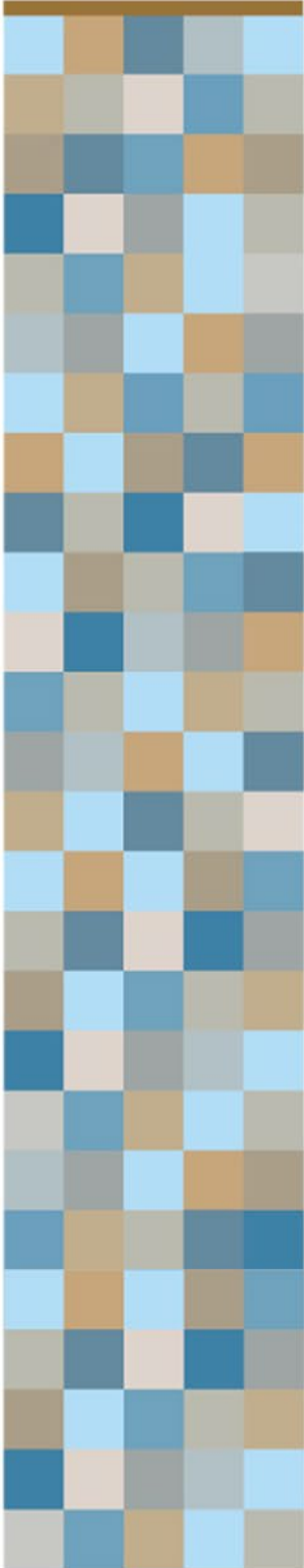
Among other things, the TCPA governs marketing to consumers by telephone calls and text messaging. For certain calls and texts made using an autodialer or an artificial or prerecorded voice message, prior express consent is required from the called/texted party and, in some instances, the consent must be in writing. It has long been held that a consumer may revoke its consent at any time. After a consumer has given the requisite consent, it may revoke its consent at any time by any reasonable means (orally or in writing), as long as the revocation clearly expresses a desire not to receive further messages.

The new rules, however, implement specific requirements with regard to revocation of consent:

- Callers/texters may not designate an exclusive means for consent revocation
- The following opt-out requests are deemed a reasonable means per se to revoke consent and, if used, consent will be considered definitively revoked and the caller may not send additional robocalls and robotexts:
 - Use of 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” in a reply to an incoming text message
 - Requests submitted to a website or telephone number designated by the caller to process opt-out requests



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- All reasonable opt-outs requests must be honored within a reasonable time not to exceed 10 business days
- For texting, if using a texting protocol that does not allow for reply texts, the texter must provide a clear and conspicuous disclosure in each text to the consumer stating that 2-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, such as a telephone number, website link, or instructions to text to a different number

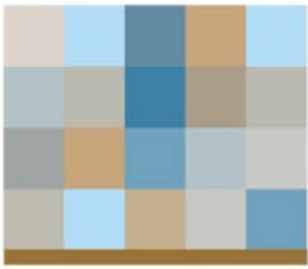
Pursuant to the April 7, 2025 Order, enforcement of the following requirement is stayed until April 11, 2026:

- Revocation of consent in response to one type of message is applicable to all future robocalls and robotexts from that caller even on unrelated matters.

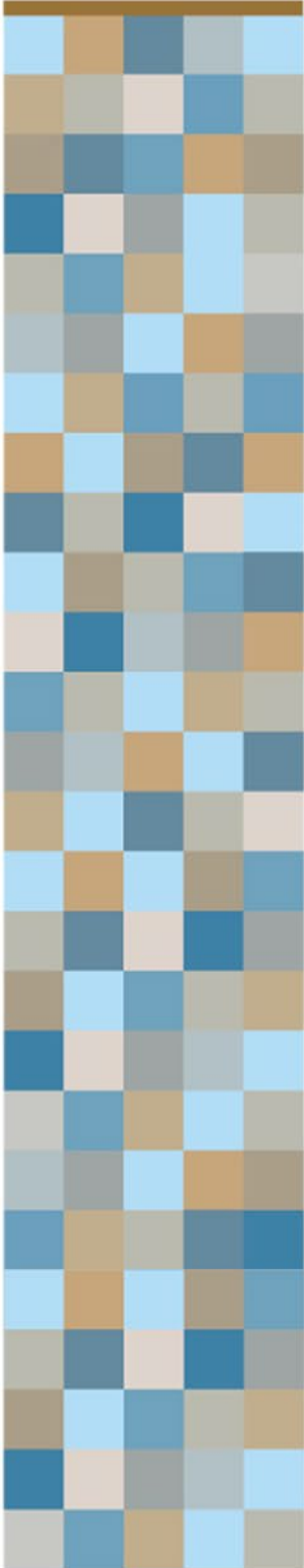
This means that a caller must stop calling and texting a consumer across all channels and for all purposes in response to a single revocation request from that consumer. The one-year enforcement delay was prompted by requests filed by several associations of banks and financial institutions, who expressed concerns regarding the complexities and legwork to ensure compliance. The FCC concurred that there was good cause to delay enforcement given the numerous challenges and complexities involved in, among other things, making the necessary modifications to existing communications to process a revocation request sent in response to one business unit's call or text so that all business units stop placing calls/texts to that consumer. This takes into consideration, for example, that many large institutions with multiple business units have separate caller systems, in addition to the need for coordinating efforts if calls/texts are outsourced to third parties. Delayed enforcement gives callers much needed breathing room to address these issues.

Effective as of last year on April 4, 2024, businesses are permitted to send a one-time confirmatory message to confirm an opt-out request, provided that the text is sent within 5 minutes of the opt-out request, does not contain any marketing or promotional information, or seek to persuade the recipient to reconsider its opt-out.

- Where a number has previously opted into multiple categories of message, the confirmatory text can also request clarification as to whether an opt-out request was meant to encompass all messages. Absent further clarification



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that the recipient wishes to continue to receive certain text messages, the sender must cease all further texts for which consent is required across all channels.

With some of the new rules coming into effect on April 11, 2025 and given the added time until April 11, 2026 as noted above, companies must be diligent in the review of their do-not-call policies and procedures, including their calling practices, internal procedures for processing do-not-call and revocation requests and training updates, to ensure they have the necessary measures in place for compliance.

If you have any questions regarding the matter raised in this Alert, please feel free to contact Terese L. Arenth at tarenth@moritthock.com or (516) 880-7235.

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