

# SPAM FROM HOME?: Home Shopping Network (HSN) Hit With New TCPA Class Action Over DNC Text Messages

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TCPA class actions against retailers arising out of SMS channel communications continue to roll in, despite *Facebook* severely limiting the availability of TCPA ATDS claims.

The issue, of course, is the DNC rules that prevent SMS messages to residential phones for marketing purposes absent prior express invitation or permission or an established business relationship.

For instance a consumer in Florida filed a TCPA class action lawsuit against HSN (home shopping network) yesterday in federal court claiming the company sent him promotional text messages without his consent and despite the fact he was on the national DNC list.

Complaint here: [HSN COmplaint](#)

The Complaint alleges HSN had a “practice” of sending text messages to consumers on the DNC list and seeks to represent a class of:

*All persons throughout the United States (1) who did not provide their telephone number to HSN, Inc., (2) to whom HSN, Inc. delivered, or caused to be delivered, more than one call or text message within a 12-month period, promoting HSN, Inc. goods or services, (3) where the person’s residential or cellular telephone number had been registered with the National Do Not Call Registry for at least thirty days before HSN, Inc. delivered, or caused to be delivered, at least two of the calls and/or text messages within the 12-month period, (4) within four years preceding the date of this complaint and through the date of class certification.*

As these cases continue to roll in it is critical that retailers and brands keep the DNC rules in mind. Most companies only seek to contact consumers that sign up for their messages but numerous challenges to compliance exist:

1. Third-party lead suppliers often provide false information;

2. Consumers enter the wrong phone numbers on POS systems and online; and
3. Phone numbers change hands regularly.

While tools exist to help limit exposure on these challenges it is critical to maintain a strong DNC policy and attendant training to provide a defense. And don't forget about the new revocation rules!

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