

Lead Generation One-to-One TCPA Consent Rule and Marketing Contract Considerations

Article By:

Richard B. Newman

The FCC's new rule requiring one-to-one consent becomes effective January 27, 2025. Much has been made about the myriad nuances those in the lead generation ecosystem must attend to in order to comply with the new rule. However, an often overlooked aspect of the new rule involves required and diligent contracting practices associated therewith.

In addition to revising and auditing websites and consent forms associated with sellers and callers obtaining lawful prior express written consent to contact consumers via regulated technologies (about products and services logically and topically associated with the website), in order to ensure compliance with the new rule sellers and callers should consult with an experienced TCPA compliance attorney in order to ensure that contracts with lead generators and purchasers contain all appropriate and necessary representations and warranties.

For example and without limitation, data collection, restrictions on the use of data and one-to-one consent obligations. Enforceable indemnity and defense provisions (e.g., compliance with applicable legal regulations, adherence to contractual warranties, etc.), along with insurance coverage provisions may also be advisable.

Recordkeeping requirements and obligations should also be squarely addressed in contracts, including, but not limited to, properly maintaining and securing copies of consumer contact information and consent language in compliance with the new rule and the Telemarketing Sales Rule.

Written marketing contracts, particularly in the lead generation world, should be diligently drafted and negotiated in order to satisfy applicable legal regulatory standards and minimize liability exposure. Incorporating one-to-one consent considerations is but one issue to consider. Without limitation, recordkeeping, use and transfer of data, indemnification, insurance, data privacy, data ownership, representations and warranties, liabilities and disputes should also be meaningfully addressed.

© 2025 Hinch Newman LLP

Source URL:<https://natlawreview.com/article/lead-generation-one-one-tcpa-consent-rule-and-marketing-contract-considerations>