

## Eleventh Circuit Invalidates FCC's One-to-One Consent Rule

Article By:

John J. Rolecki

Amy L. Baddley

---

On January 24, 2024, the Federal Communications Commission (FCC) [delayed](#) the effective date of the Telephone Consumer Protection Act's (TCPA) [one-to-one consent rule](#) until January 26, 2026, or until the Eleventh Circuit concludes its judicial review of the rule and—if the court upholds the rule—the FCC issues a Public Notice specifying a sooner date (within 90 days of the court's decision).

Hours later, the Eleventh Circuit issued its [ruling](#), invalidating the rule on the grounds that the FCC had exceeded its statutory authority in its interpretation of “prior express consent.” The TCPA requires companies to obtain “prior express consent” before robocalling consumers. However, the FCC's 2023 one-to-one consent rule expanded this requirement by mandating entity-specific consent and requiring that the subject matter of each call be logically and topically related to the interaction that prompted the consent. In striking down the rule, the Eleventh Circuit noted: “Rather than respecting the line that Congress drew, the FCC stepped right over it.”

The practical implications of this decision remain pending, as the FCC must now determine whether to appeal the ruling, substantially revise the rule or pursue an alternative approach. Notably, the current FCC appears to have adopted a distinct regulatory posture from its predecessor. In its delay order, the Commission emphasized the substantial implementation burden on industry stakeholders while acknowledging limited public interest harms associated with postponement.

Presently, the one-to-one consent rule will remain ineffective until at least January 2026, or until the FCC issues a Public Notice addressing the rule's effective date—in the event that the rule withstands additional legal challenges. The FCC is expected to announce its intended course of action in the near future, whether that involves pursuing an appeal, undertaking rule revision or withdrawing the initiative altogether.

© 2025 Varnum LLP

---

National Law Review, Volume XV, Number 28

Source URL: <https://natlawreview.com/article/eleventh-circuit-invalidates-fccs-one-one-consent-rule>

