

## **Yes, New FCC Recordkeeping Requirement is Likely Dead— But You Should Follow It Anyway. HERE’S WHY.**

Article By:

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So this is a really important blog post and I am sorry to drop it on a Friday but with ASW suddenly on my agenda wanted to get it out today.

A ton of folks have been asking us whether the FCC’s new recordkeeping rules are going into effect with the one-to-one rule thrown out. It is actually an interesting question because the Court was not asked to toss that part out directly, but it seeming did so as part of its Vacatur order anyway.

Troutman Amin, LLP’s read is that the FCC’s recordkeeping ruling is dead along with the rest of the one-to-one rule— but get yourself a lawyer for legal advice and don’t just rely on this blog.

Regardless, even assuming the recordkeeping rule is dead—and it likely is— you should still follow the requirement of ingesting a complete record of consent (including a screenshot or some sort of visualization) each and every time you buy a lead.

Why?

I could give you 1,000 examples. But I am only going to give you one.

*FTC v. Day Pacer*, 2025 WL 25217 (7th Cir. 2025).

Remember [these guys](#)?

A couple of lead generators chased by the FTC to death and beyond.

They got hit for \$28MM in penalties and the FTC chase their companies and then their personal bank accounts and then their estates when one of them died.

Now the appellate court told the FTC not to chase after dead people’s estates, but beyond that it agreed with the FTC on its liability findings.

But what had these guys actually done wrong?

They bought opt in data and made calls to try to generate leads and then sold transfers to buyers.

In other words they were lead generators.

**The problem for them is when the FTC came knocking on the door they couldn't produce the underlying lead record.**

And please understand, they DID produce lead DATA.

They produced URLs and everything. But the Court rejected this evidence as incomplete and inadmissible— the forms themselves were not provided. And on that basis alone these guys got crushed.

Again, please understand— these companies were destroyed not because they did anything illegal but because they couldn't prove they had acted legally.

The burden is on the caller to prove consent. Always has been. That burden cannot just be met with a string of data. Somebody has to come forward with the consent record.

If you work with trustworthy partners that always stand behind you and can produce millions of consent records on request 7 years from now... fine.

Otherwise you are at risk if you are not absorbing full consent records.

I know lead generation has lived a charmed life. Folks are so used to doing things the wrong way and getting away with it that my words sometimes fall flat and even seem insincere against the weight of their real-world experience.

But let those who have ears to hear hear.

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