Hogan Lovells

Are your calls and texts compliant? If not, reply HELP

As new technologies make it increasingly important to stay connected with your customers, retailers face a growing risk of class action litigation and regulatory enforcement actions involving the Telephone Consumer Protection Act (TCPA). Individuals who receive certain unwanted calls or texts can file class actions under the TCPA seeking statutory damages of $500 per call or text – even for non-marketing communications. One consumer loyalty campaign or a single order update or survey message program can quickly lead to a claim for millions of dollars.

With so much at stake, retailers need to know how to protect themselves. Telemarketing calls, autodialed calls, prerecorded calls, and text messages are regulated by the TCPA and the Federal Communications Commission's ("FCC") TCPA rules, as well as other federal and state laws and regulations. Strict disclosure and consent requirements, technical restrictions, opt-out provisions and other rules apply.

In March 2018, the D.C. Circuit struck down key portions of a 2015 FCC TCPA decision and opened up a number of new compliance and litigation challenges. Now is the time to review your programs and company processes to avoid being the next TCPA headline.

Why do businesses need to take note?

Retailers must stay in touch with their customers and their partners in order to succeed. But as technology has advanced, the risks of TCPA enforcement and class action litigation have grown exponentially.

Today, the TCPA is a C-Suite issue, as lawsuits filed by plaintiffs pursuing millions in damages have surged over the past few years. It is now one of the most sued-under federal consumer protection statutes, and almost every household-name company has faced a TCPA lawsuit in the past few years.

How we can help

We provide regular TCPA counselling to clients from a broad range of industries, including retail, technology, healthcare, communications, transportation, and financial services. We have secured dismissals and nominal settlements for clients in TCPA actions and have worked with the FCC to clarify rules addressing a number of key TCPA issues.

To discuss how we can help mitigate your TCPA risks, contact:

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To find out more:

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