

TCPA BEST PRACTICES

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WHAT IS THE ISSUE?

The Federal Communications Commission (FCC) enacted a rule requiring telemarketers or the seller of a product or service to obtain consent directly from the consumer, known as one-to-one consent, before using an automated telephone dialing system (ATDS) or sending artificial voice messages.

The One-to-One Consent Rule was scheduled to take effect on January 27, 2025. However, on January 24, 2025, the FCC issued an Order postponing the rule up to one year, and on the same day, the [11th Circuit Court of Appeals](#) vacated the One-to-One Consent Rule, ensuring it will not take effect until further notice.

RECOMMENDED PRACTICES

Even though the One-to-One Consent Rule will not take effect, real estate professionals **must still comply with the TCPA and the Do-Not-Call Registry**. Real estate professionals can telemarket without prior express written consent so long as they are not using a random or sequential number generating ATDS, do not use artificial voice messages, and adhere to the Do-Not-Call registry restrictions.

Here are six easy tips to you can use:

1. Obtain prior express written consent from consumers you intend to call or text for marketing purposes, considered the gold standard under the TCPA.
2. Adopt a TCPA/Do-Not-Call Registry policy and routinely train agents and staff on the policy.
3. Maintain lists of consumers who have given prior express written consent and who have opted out of marketing communications.
4. Routinely check names and numbers against the Do-Not-Call Registry before communicating, even when using a third-party platform or ATDS.
5. Know your state law, including so-called “mini-TCPA” laws.
6. Ask any vendors you use to obtain phone numbers or automate communications to warrant its compliance with the TCPA or indemnify you from TCPA and Do-Not-Call Registry liability.

By following these best practices, real estate professionals can continue to leverage telemarketing as part of their promotional strategy while reducing the risk of TCPA liability and costly litigation.