

## Services

Banking & Finance

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## Professionals

**SCOTT J. HELFAND**

**CHICAGO:**

**312.341.9876**

**SCOTT.HELFAND@**

**HUSCHBLACKWELL.COM**

**ALEXANDRA MCFALL**

**NASHVILLE:**

**615.949.2240**

**ALEX.MCFALL@**

**HUSCHBLACKWELL.COM**

## FCC Slams Brakes on New TCPA Consent Revocation Requirements

On April 7, 2025, the Federal Communications Commission (FCC) issued an order staying new revocation requirements from its February 16, 2024 order under the Telephone Consumer Protection Act (TCPA). Specifically, the FCC stayed what we've been calling the "across-the-board" revocation requirement. And, unlike with the recent stay of the one-to-one consent requirement, the FCC did not wait to issue this stay until the day before the new requirement took effect.

This time, the FCC issued the stay four days before the effective date. That's the "good" news. The bad news is that, unlike with one-to-one consent (where a court permanently threw out the requirement), the April 7 order is only a temporary reprieve. Specifically, the order provides a stay until April 11, 2026.

Digging into the weeds, as noted, the order addresses the across-the-board revocation requirement. Under this requirement, if a consumer has consented to receive multiple types of communications (e.g., marketing and account-servicing), and the consumer revokes consent as to one type of communication, the caller is required to treat that revocation as effective as to all types of communications.

As the FCC notes in its order, the across-the-board revocation requirement creates problems for companies trying to implement revocation across multiple business units. What's more, this requirement means that a consumer who wants to continue receiving account-servicing calls, but does not want to receive marketing calls, would likely inadvertently opt out of the former along with the latter. That is bad as a matter of customer relations. It's also bad as a matter of consumer expectation and the ability to stay informed about the status of accounts.

The order appears to solve this problem, albeit temporarily. The order stays the effect of 47 CFR 64.1200(a)(10) "to the extent the rule requires callers to treat a request to revoke consent made by a called party in response to one type of message as applicable to all future robocalls and robotexts from that caller on unrelated matters." Again, though, unless this requirement is challenged and struck down or otherwise rescinded, it will go into effect a year from now.

Of course, as with all things TCPA, there are a couple of wrinkles.

First, the order is interesting because of the interplay of 47 CFR 64.1200(a)(10) and 47 CFR 64.1200(a)(12) in the February 2024 order that the April 2025 order stays in part. The requirement to treat a single revocation as applying to all types of communications (e.g., solicitations and informational messages requiring consent such as account-servicing messages) is not expressly

included in (a)(10). Instead, when the FCC created (a)(10), the FCC also created (a)(12), which says that, if the called party revokes consent without specifying which types of communications the called party is revoking consent to receive, the caller can send a confirmatory response requesting that the called party clarify if they want to revoke consent as to all types of communications requiring consent or just some. But under (a)(12), the caller must treat the revocation under (a)(10) as effective as to all types of communications requiring consent, unless the called party clarifies in response to the confirmatory message that they want to limit the revocation to only certain types of communications.

From a common-sense perspective, even though the most recent order expressly modifies only (a)(10), it would seem odd to treat the order as not modifying (a)(12). Yet common sense is a dangerous thing when it comes to the TCPA. Common sense aside, in the February 2024 order creating both (a)(10) and (a)(12), the FCC specifically rejected the argument that (a)(10) did not create across-the-board revocation. The most recent order stays that across-the-board requirement.

Second, even under the February 2024 order creating across-the-board revocation, the across-the-board revocation generally applies only to calls that require consent. Thus, for example, the across-the-board revocation would not apply to, e.g., fraud alerts that don't require consent in the first place (that is, fraud alerts that satisfy specific requirements, including being sent from a "financial institution"). On the other hand, if the consumer revokes consent in response to the fraud alert, then the caller has to treat the revocation as applying to those calls too.

This creates a bit of a chicken-and-egg situation. Fraud alerts don't require consent in the first place. On the other hand, when placing fraud-alert calls, the caller has to provide an opt-out mechanism. So even though the calls don't require consent in the first place, they are still subject to revocation. This all gets very metaphysical. Therefore, as always, it is important to carefully parse the interplay of multiple statutory and regulatory provisions before undertaking or continuing calling campaigns.

### **What this means to you**

For now, the bottom line is the top line. The FCC has stayed the across-the-board revocation requirement under 47 CFR 64.1200(a)(10). Again, this is a stay; it's not a permanent reprieve.

Still, though, the stay is a welcome development for companies trying to honor revocation requests without stopping communications that consumers want to continue to receive. And it is a welcome development for those consumers, too.

### **Contact us**

If you have questions concerning this most recent FCC order or the TCPA, contact Scott Helfand, Alex

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McFall, or your Husch Blackwell attorney.