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FCC TCPA Declaratory Ruling on Opt-out Text Communications Enables Organizations to Issue Confirmation Messages

TechComm Client Alert

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On November 29, the Federal Communications Commission (FCC) declared that businesses are allowed to send a one-time text message to a consumer that confirms a request to opt-out of receiving future text communications. The FCC Declaratory Ruling is available [here](#).

The Commission concluded that a consumer's prior express consent to receive text messages includes consent to receive a final, one-time text message to confirm that the consent has been revoked.

A range of companies, including banks, retail stores, sports leagues and others have been subjected to class action lawsuits attempting to extract millions of dollars for such messages. The lawsuits claim that a confirmation message violates the Telephone Consumer Protection Act of 1991 (TCPA). Barclay's Bank paid \$8 million to settle such a lawsuit for a confirmation that read "You will no longer receive text alerts from Barclaycard to this number. If you have questions, call 866-408-4070." The FCC's ruling effectively nullifies such lawsuits.

SoundBite Communications, which handles text messaging campaigns and other customer interactions for more than 450 companies, requested the ruling in order to provide clarity to the mobile industry.

We anticipate additional TCPA developments at the Commission. The FCC is currently seeking comment on a range of issues involving predictive dialers and autodialers, and including whether or not certain technologies, service providers and notifications are subject to the TCPA. If you would like to become involved in these FCC proceedings, please contact us.

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