

TELEPHONE CONSUMER PROTECTION ACT DEFENSE

ENSURING YOUR CUSTOMER INTERACTIONS COMPLY WITH CONSUMER PROTECTION LAWS

THE RATE OF NEW TCPA CLASS ACTIONS CONTINUES TO INCREASE AT AN ALARMING RATE IN 2016. CLASS ACTIONS ALLOW PLAINTIFFS TO AGGREGATE THE TCPA CLAIMS OF HUNDREDS OR THOUSANDS OF CONSUMERS. WITH UNCAPPED STATUTORY DAMAGES, POTENTIAL LIABILITY CAN QUICKLY BALLOON INTO THE TENS OR EVEN HUNDREDS OF MILLIONS.

Businesses in the digital age are increasingly turning to new telecommunications technologies to interface with consumers. But businesses must proceed with caution as an old and punitive law continues to regulate most telecommunications-related technologies.

The TCPA is a federal statute enacted in 1991 to protect consumers against invasions into their private lives by businesses using mass telemarketing technologies. At that time, those technologies included autodialers, which allow computers to place thousands of calls in rapid succession, and fax machines, which permit mass delivery of print advertisements over telephone wires.

With today's focus on mobile and cloud-based technologies, businesses now regularly send text and instant messages to interact with consumers. The TCPA and its regulatory regime forbid the intrusive use of new and old technologies absent an applicable exception or consent of the receiving party. The statute allows consumers to collect up to \$1,500 in statutory damages for each violation—i.e., for each call made or message sent—and sets no limit on potential liability. When combined with the class action device, which allows plaintiffs to aggregate the claims of thousands of similarly situated consumers in a single action, uncapped statutory damages can result in potentially ruinous liability for any business, big or small.





Mobile and cloud-based technologies enable companies to easily access and interact with consumers more efficiently than ever. However, a decades-old law governs the evolving technologies of the digital age and, if ignored, could compromise your business.

Effective solutions

Any business that markets with phone calls or text messages must understand the TCPA's requirements. The TCPA also applies to informational messages and debt collection calls. Moreover, if your company hires a telemarketing or debt collection firm, be aware that it could be on the hook for their violations.

Our TCPA team is comprised of class action litigators and privacy and emerging technology lawyers and professionals. It was formed to help businesses navigate their obligations under the TCPA and to defend them when litigation cannot be avoided.

We provide hands-on counsel in several ways, including:

- TCPA compliance programs
- Internal audits and advisory services
- Litigation counsel and defense

About Nixon Peabody LLP

At Nixon Peabody, we see 21st century law as a tool to help shape our clients' futures. We are constantly thinking about what is important to our clients now and next so we can foresee obstacles and opportunities in their space and smooth the way. We work together to handle complex challenges in litigation, real estate, corporate law, intellectual property, and finance anywhere in the world.

TO LEARN MORE, PLEASE CONTACT:

Dan Deane, Partner
ddeane@nixonpeabody.com
603-628-4047

Troy Lieberman, Associate
tlieberman@nixonpeabody.com
617-345-1281

WWW.NIXONPEABODY.COM

TCPA BLOG

Subscribe to our weekly blog, featuring recent TCPA news, important developments in the law and links to additional TCPA-related resources.

Visit: TCPA.NIXONPEABODY.COM