



# REVOCACTION OF CONSENT RULEMAKING

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**Property of Enterprise Communications Advocacy Coalition**



## Which Consent?

- Instances where calling party needs/gave *prior express consent* or *prior express written consent*.
  - Prerecorded messages
  - Prerecorded sales messages
  - Voice calls initiated with automatic telephone dialing systems
  - Text messages initiated with automatic telephone dialing systems.



# Revocation of Consent to Receive Telephone Calls

- Called party may use any reasonable method to revoke consent.
- Automated interactive voice or keypress activated mechanism on a call
  - Stop
  - Quit
  - End
  - Revoke
  - Opt Out
  - Cancel
  - Unsubscribe
- Received at website or telephone number designated to process revocations.



# Revocation of Consent By Text Message

- Reply to incoming text message with “Magic 7” words must be treated as revocation.
- Other messages/phrases/words must treat as valid revocation if a reasonable person would understand those words to constitute a revocation of consent.
- If texting protocol does not allow reply texts, outbound message must provide clear and conspicuous disclosure on each text that two-way texting is not available due to technical limitation.
  - Must clearly and conspicuously provide alternative ways to revoke consent on each message



## Effective Date of Revocation

- Revocation requests in any reasonable manner must be honored within a reasonable time period
  - Not to exceed 10 business days from receipt of request.
- May not designate exclusive means to request revocation of consent.
- Use of any other means to revoke consent (e.g. voicemail or email) to any telephone number or email address intended to reach the caller creates rebuttable presumption that the consumer revoked consent.
  - Totality of circumstances determines whether a request to revoke consent has been made in a reasonable manner.



# One-Time Confirmation Messages

- Can send one-time text message confirming a revocation request.
  - Must merely confirm revocation request
  - Must not include marketing or promotional information.
  - Can be only additional message sent to called party after receiving request.
- Must be sent within **5** minutes of receipt to fall within previous consent.
  - Must otherwise show delay was reasonable
  - Longer delays will make it more difficult to demonstrate delay was reasonable
    - Leads to increased likelihood of liability



# One-Time Confirmation Messages

- If recipient consented to several categories of text messages, confirmation message may request clarification as to whether revocation was meant to encompass all such messages
  - Must cease all further text messages for which consent is otherwise required absent further clarification that recipient wishes to continue to receive certain messages
  - May only contain confirmation language – may not contain marketing or promotional material



# Recording Do Not Call Requests

- Must record requests and place subscriber's name (if provided) and telephone number on the DNC list at the time the request is made.
- Must honor requests within a reasonable period of time
  - May not exceed 10 business days from date of request. Lack of response from the consumer indicates a revocation of consent for all messages
- Liability on sellers for failure to honor DNC requests
- Must obtain prior express permission to share requests with any third party



## Effective Date of Rules

**IT IS FURTHER ORDERED** that this *Report and Order* **SHALL BE EFFECTIVE** 30 days after publication in the Federal Register, except that the amendments to sections 64.1200(a)(9)(i)(F) and 64.1200(d)(3), and new sections 64.1200(a)(10), and 64.1200(a)(11), 47 CFR § 64.1200(a)(9)(i)(F), (a)(10), (a)(11), and (d)(3), which may contain new or modified information collection requirements, will not be required until six months after OMB completes review of any information collection requirements that the Consumer and Governmental Affairs Bureau determines is required under the Paperwork Reduction Act. The Commission directs the Consumer and Governmental Affairs Bureau to announce compliance dates by publication in the Federal Register and by subsequent Public Notice.



## Effective Date of Rules

- Published in Federal Register on March 5, 2024
- One time text to confirm revocation – **Effective April 4, 2024.**
- 10 business day to honor internal DNC request – **Postponed**
- What constitute reasonable means of revocation – **Postponed**
- Honoring 7 magic words -- **Postponed**



# BUT ...

- CTIA Requires many of these requirements “voluntarily”
  - Cellular Telephone Industries Association
  - Blocking Notices
- Are your text messages subject to TCPA?



# THANK YOU

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