

TCPA/Do Not Call Compliance Pointers

1. Know the Law

- The Telephone Consumer Protection Act (TCPA) regulates calls and text messages and includes the National Do Not Call (DNC) Registry.
- For information about the TCPA and DNC laws, visit <https://www.kwconnect.com/page/industry-resource/dnc>.
- Consult your market center or a lawyer for help with TCPA/DNC compliance.

2. Get Proper Consent

- Obtain proper consent from all consumers you call or text.
- You need prior express written consent to make telemarketing calls and texts using (1) an artificial voice, (2) a prerecorded message, or (3) an automatic telephone dialing system (which may include a dialer)
- You need prior express written consent to make telemarketing calls and texts to numbers on the National DNC Registry.

3. Document Consent

- Keep a record of consent from consumers and when you obtained it.

4. Subscribe to the National DNC Registry

- The National DNC Registry is hosted on a dedicated website (<https://telemarketing.donotcall.gov/>).
- Your market center should subscribe to the Registry and applicable state DNC lists and give you login credentials.

5. Maintain an Internal DNC List

- Consumers have a right to request that you not call or text them.
- Consumers can revoke consent at any time.
- Keep a record of Do Not Call requests you receive.

6. Check DNC Lists Before You Call or Text

- Before making a call or text, check to see if the number is on:
(1) the National DNC Registry; (2) a state DNC list; or (3) your internal DNC list or your market center's
- Do not rely on lead lists from 3rd parties to be DNC compliant.

7. Honor Do Not Call Requests

- Don't call a number on the National DNC Registry or a state DNC list unless you have proper consent.
- Don't call someone who has asked to be on your internal DNC list.

8. Honor Calling Time Restrictions

- Never make a telemarketing call or text before 8 a.m. or after 9 p.m. local time at the consumer's location
- Follow any additional state law restrictions regarding when you're allowed to contact consumers located in that state.

9. Train Your Assistants, Including Virtual Assistants

- You are responsible if your assistants do not comply with TCPA/DNC laws.



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Does the Prior Express Written Consent Requirement Apply Under the Telephone Consumer Protection Act (TCPA)?

1

For calls to **residential phones**: Do calls use an **artificial voice** or **prerecorded message**?



IF NO, the TCPA does not apply unless the number is on a Do Not Call list.



IF YES TO EITHER, proceed to (3).

2

For calls to **mobile phones**: Do calls use an **artificial voice** or **prerecorded message** OR an **automatic telephone dialing system** (which may include a dialer)?



IF NO, the TCPA does not apply unless the number is on a Do Not Call List.



IF YES and the call does **NOT** contain telemarketing, then you need only **prior express consent** (meaning, the consumer gave you their cell phone number).

IF YES and the call **does** contain telemarketing, then proceed to (3).

3

Does the call contain **telemarketing**?



IF NO, the written consent rules do not apply; however, **prior express consent** (verbal or written) is still required for certain calls made to cell phone numbers and residential numbers.



IF YES, proceed to (4).

TELEMARKETING

Telemarketing includes **an offer or promotion of goods or services**. (It also includes calls that have multiple purposes, if one of the purposes is telemarketing.)

PRIOR EXPRESS WRITTEN CONSENT

Prior express **written** consent is required for calls to cell phones as described in step 2. Prior express **written** consent is also required for certain calls to residential lines that use an artificial voice or prerecorded message.

4

Written consent is required prior to initiating telemarketing calls and texts as follows:

Prior express written consent is required to make telemarketing calls to cell phones (including text messages) using:

- 1) an artificial voice
- 2) a prerecorded message
- 3) an automatic telephone dialing system (which may include a dialer).

Prior express written consent is required to make telemarketing calls to residential lines using an artificial voice or prerecorded message.

Prior express written consent is required to make telemarketing calls and texts to personal telephone numbers on a Do Not Call list.

Federal, state, and internal Do Not Call lists must be checked at least monthly.