

FCC ISSUES GUIDANCE ON THE SCOPE OF THE TCPA'S "EMERGENCY PURPOSES" EXCEPTION

The Telephone Consumer Protection Act ("TCPA") generally prohibits the use of automated text messages or prerecorded calls to a cellular number without the prior consent of the receiving party. The TCPA expressly excepts from the foregoing prohibition any calls or messages sent for "emergency purposes." See 47 C.F.R. § 64.1200(f)(4). In a [Declaratory Ruling](#) made on March 20, 2020, the FCC clarified the scope of the "emergency purposes" exception in the context of the COVID-19 outbreak.

In determining whether an automated call or message related to the COVID-19 pandemic qualifies as one made for "emergency purposes," the FCC set forth a two-prong test. First, the sender or caller must be a hospital, health care provider or government official or an individual under the express direction of any of the foregoing. Secondly, the substance of the message or call must be: (i) solely informational in nature; (ii) made necessary because of the COVID-19 outbreak; and (iii) directly related to the imminent health or safety risk arising out of the COVID-19 outbreak.

Thus, unsolicited calls by a hospital providing accurate time-sensitive safety information related to the COVID-19 disease would be permissible, but calls advertising or marketing services, such as at-home test kits, or calls attempting to collect a debt would not be permissible without the prior written consent of the recipient.

If you have any questions, please contact:

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