

FAQs – Tele-Town Halls

Summary: There is understandable interest in how the Telephone Consumer Protection Act's (TCPA) robocall restrictions apply to calls made by, or on behalf of, the federal government, including mass-participant calls made by federal legislators to discuss issues and gather input from their constituents (commonly referred to as "tele-town halls"). The Commission is considering a proposed ruling on a petition asking for a formal clarification of how tele-town halls comply with the TCPA, and the Supreme Court recently decided a relevant case, *Campbell-Ewald Co. v. Gomez*, involving robocalls made by a federal government contractor. The Commission is now reviewing how that judicial decision impacts the pending request on tele-town halls. Below is a short Q&A that we hope will provide some interim information on the issue. Once the Commission completes its review and votes on the request described above, this material will be updated.

Q: Are robocalls for the purpose of obtaining constituent participation in tele-town halls illegal under the TCPA?

A: The TCPA does not specifically address whether the federal government must get consent for its own robocalls, whether made by federal employees or contractors on the government's behalf. Instead, the TCPA generally defines robocalls as calls made either with an automatic telephone dialing system (sometimes called an "autodialer") or with a prerecorded or artificial voice and describes two broad categories: telemarketing and informational. Federal government robocalls to constituents, including those to organize tele-town halls, are informational, not telemarketing, and may be freely made to a constituent's residential landline phone. The question of federal robocalls to a constituent's wireless phones, however, is more complicated, as calls to wireless generally require the consumer's prior consent. The Commission is currently considering a proposed ruling on the tele-town hall question, in light of the recent Supreme Court ruling.

Q: What is the Commission doing to clarify whether consent is required for robocalls to organize tele-town halls, along with other federal government calls?

A: In light of the Supreme Court's recent ruling on what the federal government may and may not do under the TCPA, the Chairman recently circulated a proposal to his fellow Commissioners that would, if adopted by the full Commission, clarify the situation. Specifically, the Chairman's proposal would address whether the federal government, its agencies, contractors working on their behalf, and its officials acting in an official capacity are subject to the TCPA's restrictions, including when they or their contractors make robocalls in the context of organizing and participating in tele-town halls relating to official duties.

Q: Is the Commission considering whether robocalls as part of an election campaign or other political activity can be made without consumer consent?

A: No. This issue is settled and not part of the Chairman's proposal. Robocalls made as part of an election campaign or other political activity outside a legislator's official duties require consumer consent when made to wireless phones. For more information, please review the Commission's biennial reminder regarding political robocalls and robotexts (<http://go.usa.gov/cskTV>).

Q: Why is there a distinction between residential landline phones and wireless phones?

A: The TCPA statutory language makes this distinction across the board, in recognition of the cost of calls to wireless phones when the TCPA was enacted, and the arguably greater privacy intrusion.

Q: How can a robocaller obtain consumer consent for those calls that require it?

A: For informational robocalls to wireless numbers, consent is relatively straightforward to obtain. It can be either written or oral, can be obtained online, on a (non-robocall) call, or any other reasonable means.