



November 6, 2012

FCC PUBLISHES EFFECTIVE DATES FOR TCPA AMENDMENTS

The Federal Communications Commission (FCC) recently announced approval by the Office of Management and Budget of the FCC's previously issued final amendments to its existing Telephone Consumer Protection Act (TCPA) rules. *See* 77 Fed. Reg. 63240 (Oct. 16, 2012); *see also* 77 Fed. Reg. 34233 (June 11, 2012), the FCC's Report and Order adopted and released on February 15, 2012 and DTS *Alert*, dated June 21, 2012.

The following final amendments, which originally were issued on June 11, 2012, now will be implemented as follows:

- November 15, 2012 – The permissible 3% call abandonment rate must be calculated over a 30-day period for each calling campaign, so that telemarketers cannot shift more abandoned calls to certain campaigns, as is possible if calculation is made across multiple calling campaigns.
- January 14, 2013 – Telemarketers must implement an automated, interactive opt-out mechanism for autodialed or prerecorded telemarketing calls to wireless numbers and for prerecorded telemarketing calls to residential lines that would allow a consumer to opt out of receiving additional calls immediately during a telemarketing robocall.
- October 16, 2013 – Prior express written consent must be obtained for autodialed or prerecorded telemarketing calls to wireless numbers and for prerecorded telemarketing calls to residential lines; and the "established business relationship" exemption no longer will apply to prerecorded telemarketing calls to residential lines. □

✧ *Judy Scheiderer and Margaret Stolar*

FCC CREATES DNC REGISTRY FOR 911 CALL CENTER NUMBERS

The FCC recently announced that it has adopted rules (i) creating a specialized Do-Not-Call registry for Public Safety Answering Points (PSAP) and (ii) prohibiting the use of robocalling equipment to contact registered PSAP phone numbers other than for

an emergency purpose. The rules address creation and ongoing management of the registry, including adding PSAP telephone numbers and granting and tracking access to the registry. The rules also provide for penalties of between \$10,000 and \$100,000 per call depending upon whether the violation was negligent, grossly negligent, reckless or willful and upon whether the violation was a first or subsequent offense. The prohibition on contacting registered numbers applies to an "operator of automatic dialing or robocall equipment," which is defined under the rules as any person or entity who uses an "automatic telephone dialing system," as defined in Section 227(a)(1) of the TCPA. The prohibition applies to both voice and text calls. *See* FCC Report and Order, In the Matter of Implementation of the Middle Class Tax Relief and Job Creation Act of 2012, Establishment of a Public Safety Answering Point Do-Not-Call Registry, CG Docket No. 12-129 (Oct. 17, 2012).

The FCC indicates that it will continue to work on the operational details of the registry and, once complete, will release the details, including the effective date for compliance with the new rules. □

✧ *Judy Scheiderer and Margaret Stolar*

Darrell L. Dreher
ddreher@dltlaw.com

Judith M. Scheiderer
jscheiderer@dltlaw.com

Elizabeth L. Anstaett
eanstaett@dltlaw.com

Charles V. Gall
cgall@dltlaw.com

Susan L. Ostrander
sostrander@dltlaw.com

DREHER TOMKIES SCHEIDERER LLP

2750 Huntington Center

41 S. High Street

Columbus, Ohio 43215

Telephone: (614) 628-8000 Facsimile: (614) 628-1600

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Michael C. Tomkies
mtomkies@dltlaw.com

Margaret M. Stolar
mstolar@dltlaw.com

Robin R. De Leo
robin@dreher-la.com

Vanessa A. Nelson
vnelson@dltlaw.com

Kathleen L. Caress
kcaress@dltlaw.com