

Telephone Consumer Protection Act Services

Financial Services

The Federal Communications Commission (“FCC”) announced a final rule under the Telephone Consumer Protection Act (“TCPA”) that places limits on the number of calls that can be made to consumers without prior express consent.¹ Other recent laws enhance consumer protections from unwanted calls and emphasize personal privacy.² TCPA violations can result in substantial penalties per violation, with penalty amounts increasing for willful violations. Additionally, there is no cap on statutory damages, meaning that thousands of violations can result in millions of dollars of fines.

Ensuring compliance with the TCPA will remain key for companies as regulation continues to become more stringent and litigation is a focal point. FTI Consulting works with clients to ensure operational efficiency and compliance with the TCPA when contacting customers. We help design, assess and implement leading management practices and systems to help maximize impact while ensuring compliance with applicable laws and regulations.

Litigation Support Expertise

Since 2021, more than 750 consumer class actions were filed alleging a violation of TCPA, many of which ended in settlements to avoid potential adverse decisions and reputational damage.³ Our team has worked with outside counsel for institutions in a variety of litigation matters involving TCPA. We have deep experience in providing litigation expertise and ongoing consulting expert support in class certifications.



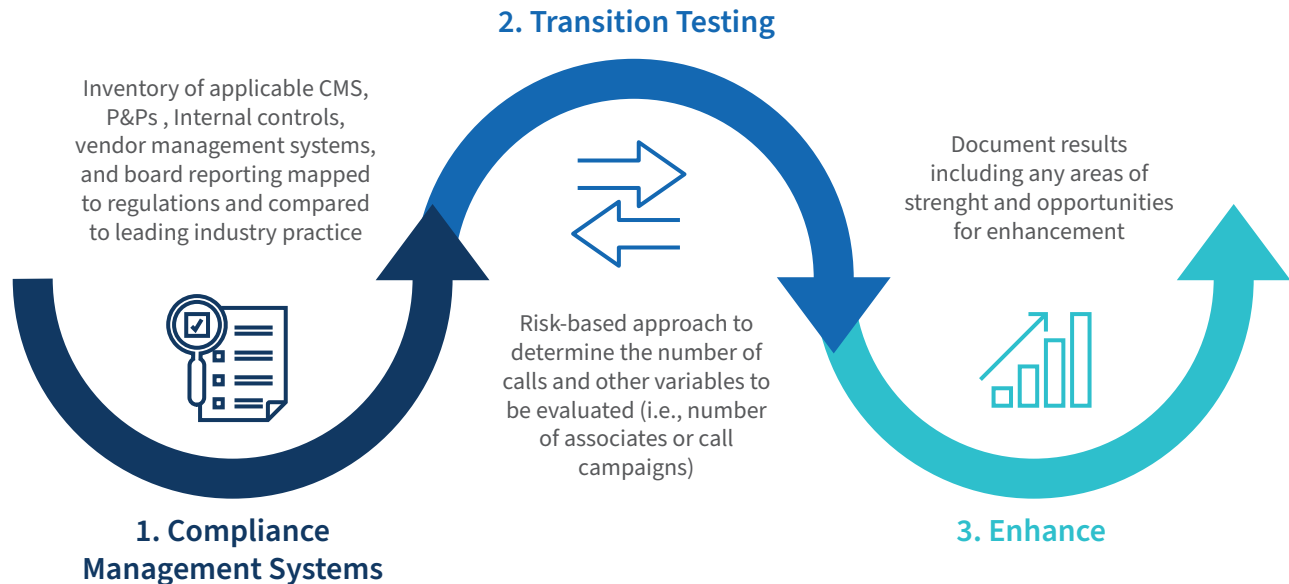
¹ [Ben Sigall, FCC's TCPA Call Exemption Limitation Final Rule Set to Take Effect in March, \(February 25, 2021\).](#)

² [Telephone Consumer Protection Act 47 U.S.C. § 227.](#)

³ FTI Consulting analysis.

Illustrative TCPA Assessment Overview

Our approach includes an evaluation of the design of the control environment through a review of policies and procedures and can then incorporate a determination of whether those policies and procedures are being followed through a review of specific call transactions.



TCPA Regulatory Experience

- Our team of risk and compliance specialists, former executives, former regulators and industry participants have assisted with a wide range of projects covering regulations and issues such as the TCPA
- We provide practical TCPA regulatory compliance insights and recommendations for businesses to implement
- We can provide a roadmap to successfully manage TCPA compliance responsibilities and self-identify problem scenarios and risk areas for remediation in advance of regulatory examinations and litigation
- Our experience partnering with clients allow us to understand operational concerns and business strategy implications of TCPA





CASE STUDY

TCPA Assessment for a large health services company

SITUATION

As part of a litigation agreement, a health services company was required to perform a TCPA compliance assessment. The company works with health plans to schedule and perform in-home health assessments to subscribers of the client's health plans. Outbound phone calls, text messages and mailings are utilized to promote the service to the health plan subscribers. Although consent is provided to the health services company, they are still subject to the TCPA and updates were required to be made to the compliance program. FTI Consulting was engaged to assess key TCPA compliance risks and to gain an understanding of outreach and customer account practices, policies, procedures, call scripts, internal controls, performance metrics and agent supervision and training.

OUR ROLE

- We met with key stakeholders, performed interviews and completed a gap analysis against applicable TCPA requirements.
- Additionally, we developed a test plan for TCPA compliance and performed call monitoring of recorded phone calls to assess compliance.
- We met with key stakeholders to deliver the results and provided suggestions for enhancements to the health services company's TCPA compliance program.
- As part of the engagement, we also worked with similar industry clients to complete a benchmarking exercise for TCPA-related and operational metrics, systems and practices.

OUR IMPACT

- Allowed the health services company to meet the requirements of the litigation agreement
- Enabled the company to enhance its TCPA compliance program in several areas
- Provided a roadmap for enhancements to TCPA training and audit programs
- Provided insight into its competitors' practices for strategic consideration and planning

The views expressed herein are those of the author(s) and not necessarily the views of FTI Consulting, Inc., its management, its subsidiaries, its affiliates, or its other professionals.

DAVID KING

Senior Managing Director
+1 713 353 5432
david.king@fticonsulting.com

TROY KUBES

Managing Director
+1 402 270 1458
troy.kubes@fticonsulting.com

SANJAY MARWAHA

Managing Director
+1 646 453 1237
sanjay.marwaha@fticonsulting.com

FTI Consulting is an independent global business advisory firm dedicated to helping organizations manage change, mitigate risk and resolve disputes: financial, legal, operational, political & regulatory, reputational and transactional. FTI Consulting professionals, located in all major business centers throughout the world, work closely with clients to anticipate, illuminate and overcome complex business challenges and opportunities. FTI Consulting, Inc., including its subsidiaries and affiliates, is a consulting firm and is not a certified public accounting firm or a law firm. ©2022 FTI Consulting, Inc. All rights reserved. www.fticonsulting.com

