

## CLIENT ALERT

### FCC Reverses Precedent, Rules that Government Contractors Are Subject to the TCPA

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In a [ruling](#) issued last week, the Federal Communications Commission (FCC) overturned precedent from 2016, ruling that federal, state, and local government contractors are subject to the Telephone Consumer Protection Act (TCPA) and therefore cannot make TCPA-prohibited robocalls on behalf of the government.

The TCPA restricts certain calls made by “any person.” In a 2016 ruling, the FCC declared that the term “person” does not include the federal government and that therefore the TCPA’s restrictions do not apply to calls made by the federal government. The FCC extended this interpretation to cover calls made by contractors acting as agents of the federal government in accordance with the federal common law of agency.

On reconsideration, the FCC has now reversed its 2016 ruling, ruling that:

- A federal government contractor making calls on behalf of the government is a “person” subject to the TCPA;
- A state government caller making calls in the conduct of official government business is not a “person” subject to the TCPA;
- A state or local government contractor, like a federal government contractor, is a “person” and is therefore subject to the TCPA; and
- A local government, unlike a federal or state government, is a “person” subject to the TCPA.

Given that the TCPA is fertile ground for litigants and plaintiffs’ attorneys due to the potential damages of \$500 to \$1,500 per violation, government contractors should review their calling practices to analyze the impact of this recent FCC ruling.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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