

FCC Issues Declaratory Ruling Regarding COVID-19-Related Messages

TELEPHONE CONSUMER PROTECTION ACT | CORONAVIRUS | MARCH 23, 2020



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On March 20, 2020, the Federal Communications Commission (FCC) issued a declaratory ruling with respect to the emergency purposes exception of the Telephone Consumer Protection Act (TCPA).

This ruling was issued on the agency's own motion, without the typical notice and comment procedure that otherwise is part of such FCC rulings. The ruling, which was issued through the Consumer and Governmental Affairs Bureau, takes what can fairly be construed as a narrow view of what is covered by the exemption, stating:

First, the caller must be from a hospital, or be a health care provider, state or local health official, or other government official as well as a person under the express direction of such an organization and acting on its behalf. Second, the content of the call must be solely informational, made necessary because of the COVID-19 outbreak, and directly related to the imminent health or safety risk arising out of the COVID-19 outbreak.

The ruling also gives specific examples of various forms of COVID-19-related messages that *are not* emergency in nature. These include **“advertising a commercial grocery delivery service, or selling or promoting health insurance, cleaning services, or home test kits.”**

If your organization is considering sending bulk text messages or telephone calls related to COVID-19, we strongly urge you to carefully consider the March 20 declaratory ruling.