

# Telephone and Texting Compliance News — June 2023

June 30, 2023 | Article | By [Russell H. Fox](#), [Jonathan P. Garvin](#), [Joshua Briones](#), [Esteban Morales](#)

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## VIEWPOINT TOPICS

- Technology, Communications & Media
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## RELATED PRACTICES

- TCPA & Consumer Calling
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## RELATED INDUSTRIES

We are pleased to present our latest edition of *Telephone and Texting Compliance News*, providing insights and news related to the Telephone Consumer Protection Act (TCPA). In this issue's Regulatory Update, we cover a Notice of Proposed Rulemaking adopted by the Federal Communications Commission (Commission) at its June Open Meeting. The proposed rules are designed to strengthen consumers' ability to revoke consent to receive robocalls and robotexts by clarifying and codifying several previous Commission rulings related to consent under the TCPA. If adopted, the proposed rules would allow consumers to revoke consent in any reasonable manner, require callers to honor revocation or do-not-call requests within 24 hours, and mandate that wireless carriers honor customers' requests to cease robocalls or texts. After a consumer opts out of messages, callers would be able to send a one-time revocation confirmation message.

In our Litigation Update, we discuss the Third Circuit's decision in *Credit One Bank, N.A. v. Lieberman*, which upheld an arbitration award of more than \$286,000 for a fraud counterclaim in a TCPA case. Although the Third Circuit did not affirm the district court's additional award of more than \$73,000 to Credit One for additional costs, the appellate opinion sent a big message — exposure in TCPA cases is not necessarily a one-way street in favor of parties who bring TCPA claims. When the defendant in the *Credit One* case opened a credit card account in his wife's name, he listed her as the cardholder and his phone number as the cardholder's contact number. The arbitrator agreed with Credit One's theory that the defendant intentionally went into default to induce telephone calls in the hope of generating a TCPA claim based on calls made by an automatic telephone dialing system.

If you have suggestions for topics you'd like us to feature in this newsletter, or any questions about the content in this issue, please feel free to reach out to an attorney on Mintz's [TCPA and Consumer Calling Practice team](#).

## In This Edition

### Regulatory Update

- [Commission Seeks to Clarify and Codify Calling Consent Requirements](#)

### Litigation Update

- [Third Circuit Affirms \\$286,000 Fraud Counterclaim Arbitration Award](#)

## Authors



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Russell H. Fox is a wireless communications attorney at Mintz. He guides clients through federal legislative, regulatory, and transactional matters. Russell also participates in FCC proceedings, negotiates spectrum agreements, and represents clients in spectrum auctions.



**Jonathan P. Garvin**, Associate

Jonathan Garvin is an attorney at Mintz who focuses on legal challenges facing companies in the communications and media industries. He advises clients on transactional, regulatory, and compliance issues before the FCC involving wireless, broadband, broadcast, and cable matters.



**Joshua Briones**, Member / Managing Member, Los Angeles Office

Joshua Briones is a commercial litigator who defends consumer class actions for Mintz. He's represented clients in a wide range of industries, including financial services, life sciences, manufacturing, and retail, in cases involving false advertising, unfair trade practices, and other claims.



**Esteban Morales**, Member

Esteban Morales is a Mintz litigator who handles class action defense and financial services litigation for companies of all sizes. He defends clients targeted in class action suits, and the results include dismissals at the pleading stage. Esteban practices in Mintz's Sports Law Practice.

## More Viewpoints

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