



Telemarketing Sales Rule (TSR)

Over the last several years, businesses that make outbound calls (or utilize third parties to make outbound calls on their behalf) have focused the majority of their attention and compliance efforts on the Telephone Consumer Protection Act (TCPA). With the prevalence of class action TCPA lawsuits awarding millions of dollars in damages, this is understandable. However, businesses making marketing or charitable solicitation calls must also comply with the Federal Trade Commission's TSR and similar state laws.

Among other things, the TSR imposes requirements related to the National Do Not Call Registry, internal Do Not Call lists, disclosures, calling times, caller identification information, abandoned calls, prerecorded messages, payment authorizations, and recordkeeping. Noncompliance can result in civil penalties of up to \$40,000 per call. The TSR does, however, provide safe harbor defenses for businesses that have implemented the requisite compliance measures. Having a safe harbor compliance program in place is a critical risk mitigation tactic for sellers and telemarketers alike.

As general counsel for the Professional Association for Customer Engagement (PACE)—the industry association dedicated exclusively to the contact center and customer engagement industry—we have significant experience helping clients comply with the TSR and similar state laws.





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We offer a wide range of TSR services, including the following:

- **Compliance Programs.** We regularly help clients implement safe harbor compliance programs. These programs include, among other things, drafting policies and procedures, training employees on these policies and procedures, and establishing robust quality assurance protocols to ensure the policies and procedures are being followed.
- **Compliance Audits.** Unlike many law firms, we regularly conduct on-site telemarketing compliance audits of our clients' contact centers or inside sales operations. Such audits are typically the best way to verify that the compliance program is working as designed and to assess the organization's risk exposure. Often times, these audits bring to light new campaigns or business practices that have not been fully vetted from a compliance perspective. By discovering these issues proactively, we've successfully helped our clients remediate noncompliant practices before they catch the attention of regulators, thereby avoiding costly enforcement actions or litigation.
- **Third Party Due Diligence and Contract Review.** In addition to auditing our clients' internal compliance programs, we also help clients mitigate external risks by establishing robust due diligence programs for their vendors, dealers, marketing partners and/or merger or acquisition targets. Such programs might include pre-contract due diligence measures, contractual requirements/prohibitions, marketing guidelines, ongoing due diligence protocols, and remediation measures.

- **State and Federal Investigations.** We can help you navigate telemarketing investigations brought by the Federal Trade Commission (FTC) or state attorneys general.
- **Regulatory Advocacy.** In addition to TSR compliance and litigation services, we also advocate for clients' interests before the FTC. This includes filing comments on behalf of our clients and meeting with FTC staff and leadership regarding relevant issues.

