



Key Elements of a Telemarketing Compliance Assessment

Outbound calls and text messages can be an effective way to reach consumers, but telemarketing carries significant regulatory risk. Federal laws like the Telephone Consumer Protection Act (TCPA) and the Telemarketing Sales Rule (TSR) are actively enforced by the FCC and FTC.

Litigators also take advantage of the TCPA's private right of action, filing thousands of lawsuits every year. Settlements in these cases can reach tens of millions of dollars. State telemarketing laws add another layer of compliance complexity and risk.

To ensure they are operating within the bounds of these laws, businesses need to conduct thorough assessments of their outbound campaigns. Part of these assessments need to evaluate if lead forms contain all the required information, how outreach is executed, and how consumer rights are honored across the entire lifecycle.

A strong telemarketing compliance assessment blends documentation review, technical validation, and operational analysis. Here are the elements of a telemarketing program that need to be covered in an assessment.

Consent Management and Documentation

The TCPA requires prior express consent or an exemption before most telemarketing calls or texts to consumers. This is especially true for calls or texts using automation or prerecorded messages/voices.

A compliance assessment should evaluate how consent is collected, whether disclosures are clear, conspicuous, and unambiguous, and how consent revocations are honored. This includes reviewing web forms, landing pages, and lead generation flows to confirm that consumers are told exactly what they are agreeing to and who will be contacting them.

Key assessment checks include:

- Ensure every lead has a documented “paper trail” including the specific consent language displayed to the user, the time and date of consent, and where and how it was obtained (web page, over the phone, etc.).
- Confirm the disclosure clearly states that the consumer agrees to receive marketing calls/texts from your company via automated technology, and that consent is not a condition of purchase.

- If purchasing leads, assess third-party affiliates for compliance. Verify that the consent obtained by the partner explicitly covers your brand.
- Ensure opt-out requests (e.g., “STOP”) are honored within 10 business days.
- Consent records should be kept for at least five years.

Do Not Call (DNC) Compliance

Organizations must scrub their calling lists against the National Do Not Call Registry at least every 31 days. The TSR also requires companies to maintain an internal DNC list. DNC Violations can result in fines of up to \$50,120 per call.

An assessment should include the following steps to ensure DNC compliance:

- Compare outbound numbers against the National DNC Registry, state lists, and your internal “Do Not Call” list before calling.
- Confirm that every call to a DNC-registered number is backed by written, “one-to-one” consent that is specific and documented or an established business relationship.
- Check if individuals who requested to be added to your internal list are still receiving calls.
- Ensure dialing systems automatically suppress flagged numbers.

80% of TCPA filings are now class action lawsuits.

Reassigned Numbers Database Compliance

A growing compliance risk for telemarketers is calling a number that has been reassigned to a new user who hasn’t consented to be contacted. To address this, the FCC established the Reassigned Numbers Database (RND), which allows businesses to verify whether a number has been permanently disconnected and reassigned.

When a business queries the RND and receives a “no” response (meaning the number has not been reassigned), it may qualify for a safe harbor from TCPA liability, even if the call turns out to be a mistake.

Steps in an assessment to account for RND compliance should include:

- Confirming regular checks of phone numbers against the FCC’s RND.
- Reviewing how frequently number validation occurs.
- Ensuring integration between the RND and dialing systems.
- Verify that records of their queries and results are being kept.

Call Times and Frequency

Even with consent to contact a consumer, telemarketing calls are generally restricted to 8:00 am to 9:00 pm in the consumer's time zone. State laws may impose stricter requirements, making it essential to evaluate location-specific controls.

Federal regulations don't have clear limits for call attempts, but excessive calls and texts can be viewed as abusive or harassing behavior. Some states will have attempt limits that must be adhered to.

To account for these rules, calling assessments should:

- Review call logs for time-of-day compliance, accounting for state calling time restrictions.
- Validate time zone logic in dialing systems.
- Evaluate redial strategies and contact cadence limits.

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Technology and Dialer Compliance

The TCPA largely regulates Automatic Telephone Dialing Systems (ATDS) and prerecorded messages (robocalls). The law requires prior express consent for marketing calls/texts made with equipment that stores or produces numbers using a random or sequential number generator and dials them. The same consent rules apply to prerecorded messages. All prerecorded messages must provide an opt-out mechanism.

Under the TCPA and TSR, call abandonment rates must not be more than 3%. A call is considered "abandoned" if a person answers it and the telemarketer does not connect the call to a sales representative within two seconds.

Organizations must transmit accurate caller ID information, including a valid phone number that consumers can use to make a do-not-call request. Failure to provide this information can result in regulatory penalties.

To assess for compliance in these areas:

- Confirm abandoned call rate calculations and reporting.
- Review dialer configurations. Verify that ATDS and prerecorded message usage are backed by prior consent.
- Verify all prerecorded messages provide an opt-out option.
- Ensure systems distinguish between manual and automated dialing where required.
- Ensure the numbers displayed on caller ID are valid, reachable phone numbers that connect to a functioning opt-out or customer service line.

Script and Disclosure Review

The TSR requires telemarketers to promptly and clearly disclose the following information before making a sales pitch:

- The identity of the seller and the entity that the call is made on behalf of.
- The caller must promptly disclose that the call is a sales call.
- A brief description of the items you are offering for sale must be given.

Assessments should include both script reviews and a review of call recordings to ensure the proper disclosures are being made.

Third-Party Compliance

Many organizations rely on lead generators or outsourced call centers, but under both TCPA and TSR frameworks, liability often extends to the seller, not just the vendor.

A compliance assessment should examine whether third parties are operating to the same standards as internal teams

This includes reviewing:

- The lead providers' consent practices and record quality.
- Contracts for explicit regulatory compliance obligations, ensuring that assessment rights are included.
- Vendor scripts, call recordings, DNC scrubbing practices, opt-out procedures, etc.

PossibleNOW is the pioneer and leader in compliant customer interactions. From federal and state regulations to international laws, our platform **DNCSolution** consolidates everything a business needs to stay compliant with regulations such as Do Not Call, TCPA, CAN-SPAM, and Reassigned Numbers Database. We back our solutions with a 100% compliance guarantee and keep companies out of the crosshairs of professional litigators.

Our **MyPreferences** platform centralizes the collection and distribution of customer communication consents and preferences, making compliance and personalization possible across the enterprise. PossibleNOW's strategic consultants take a holistic approach, leveraging years of experience when creating strategic roadmaps, planning technology deployments, and designing customer interfaces.

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