

MACY’S OUT OF TCPA SUIT: Court Holds Delay of One Business Day to Process DNC Request Not “Unreasonable”

Article By:

Eric J. Troutman

The FCC is currently considering a couple of important NPRMs. One of those is designed to limit the amount of time businesses have to respond to **DNC requests to as little as 24 hours!**

R.E.A.C.H. (always on the forefront here) filed a comment trying to explain how **unworkable such a deadline would be,** but it remains to be seen what the Commission does with it.

Under current law a company has “up to” 30 days to stop calling but the “reasonable time” standard remains. And some courts have given much less than 30 days as reasonable.

While the line of “reasonableness” may not be clear the court in *Barr v. Macys.com*, 2023 WL 6393480 (S.D.N.Y. Sept. 29, 2023) clarified that a business need not honor an opt out within 3 days and 1 business day—and that’s a bit win for Macy’s and TCPAWorld as a whole.

In *Barr* the Plaintiff asked for texts to stop on Saturday July 16, 2022. On July 19, 2022—the following Tuesday—Macy’s sent one more promotional text.

Now arguably Macy’s could have moved to dismiss because Plaintiff alleged only receipt of *one* text in violation of the TCPA and 227(c) requires multiple calls to be actionable.

Instead, however, Macy's focus on the argument that it had a reasonable time to stop messages and a 3 day delay simply was not unreasonable. The Court agreed:

Here, the Court struggles to see how failure to comply with Plaintiff's DNC request within one business day could be unreasonable. Again, Plaintiff has also not put forward evidence that Defendant lacked a proper procedure at the time the contact was made. Therefore, Plaintiff's TCPA claims must be dismissed.

That's a great result folks.

But keep in mind this 3-4 day grace period to honor a revocation is in peril given the FCC's current NPRM proceeding. So pay attention!

For now the take away is clear—courts will give a business a reasonable time to honor a stop request. That doesn't mean businesses should be slow, however. Courts are not always forgiving here. So tread carefully and honor consumer requests to opt out!

© 2024 Troutman Amin, LLP

National Law Review, Volumess XIII, Number 276

Source URL: <https://www.natlawreview.com/article/macys-out-tcpa-suit-court-holds-delay-one-business-day-process-dnc-request-not>