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TCPA and the Franchise Industry:

A Compliance White Paper

This white paper is provided for general informational and educational purposes only and does not constitute legal advice. Franchise operators should consult qualified legal counsel regarding their specific TCPA compliance obligations.

Table of Contents

Executive Summary

The Telephone Consumer Protection Act (TCPA), enacted in 1991, has evolved into one of the most actively litigated federal statutes in the United States. Originally designed to curb unwanted telemarketing calls, it now governs virtually all forms of automated business text messaging - and its enforcement posture has never been more aggressive.

For franchise operators, the TCPA presents a compounded risk that single-location businesses do not face: a non-compliant texting campaign at one franchisee location can generate liability exposure for the entire brand. Courts have established - and continue to refine - the doctrine of vicarious liability as it applies to franchise networks, meaning a franchisor may be held responsible for the texting conduct of its franchisees under specific, fact-dependent conditions.

This white paper examines the current TCPA litigation environment, the legal doctrines uniquely applicable to franchise networks, notable case outcomes across multiple industries, and a practical framework for building a compliant SMS program across a multi-location franchise system.

Section 1 The TCPA Core Legal Framework

The Telephone Consumer Protection Act is codified at 47 U.S.C. § 227. It prohibits:

- Making any call - including a text message - using an automatic telephone dialing system (ATDS) to a cellular telephone without prior express consent
- Making calls using prerecorded or artificial voice messages without consent
- Calling numbers registered on the National Do Not Call (DNC) Registry
- Sending marketing messages outside permitted hours: before 8:00 AM or after 9:00 PM local time at the recipient's location

The TCPA has been interpreted by multiple federal circuits to apply to text messages with the same legal force as voice calls, a principle established in Satterfield v. Simon & Schuster, Inc., 569 F.3d 946, 952 (9th Cir. 2009) and affirmed across subsequent litigation.

Consent Standards

The TCPA distinguishes between two levels of consent:

Prior express consent is required for informational messages - appointment reminders, transactional notifications, delivery alerts. A consumer providing their phone number in a commercial transaction may constitute prior express consent for non-marketing contacts directly related to that transaction.

Prior express written consent is required for all marketing or promotional text messages. This is a materially higher standard. It requires a signed written agreement - digital consent is legally acceptable - that clearly and conspicuously authorizes the sender to send promotional messages and discloses their nature. Verbal consent is insufficient.

Courts have consistently held that a consumer simply handing over a phone number does not constitute consent for marketing texts. The burden of proving valid consent rests entirely on the sending business, and courts have found this burden "almost always impossible to demonstrate without adequate records."[1]

Statutory Damages

The TCPA is a strict-liability statute. No intent to violate the law is required to trigger liability:

Standard violation	Willful or knowing violation	Aggregate cap
$500	**Up to $1,500**	**None**
Per Message	Per Message	

Because there is no aggregate cap, a single SMS campaign sent without proper consent to tens of thousands of recipients can generate exposure in the tens of millions of dollars. The Heartland Automotive Services case - discussed in Section 4 - involved 2.3 million recipients and carried theoretical maximum liability exceeding one billion dollars at $500 per violation.[2]

Section 2 The Litigation Landscape Quantified

The scope of TCPA litigation has reached levels that legal commentators describe as unprecedented. The following data is sourced from WebRecon LLC (a litigation tracking service widely cited in legal publications) and reporting by attorneys actively practicing in TCPA defense.

Annual Filing Volume

- 2024 saw 2,788 total TCPA cases filed - a 67% increase over 2023. 2023 itself was up 40% over 2022.[3]
  In late 2024, the share of TCPA filings filed as class actions reached extraordinary levels - 95.5% in November
- 2024 and 85.3% in December 2024 - almost certainly the highest class-action concentration under any federal
- statute in U.S. history .[3]

2025 Acceleration

- Q1 2025 saw 507 TCPA class actions filed - a 112% year-over-year increase over Q1 2024.[4]
- September 2025 set a single-month record of 224 TCPA class actions - a 283% increase over September 2024's 79 filings. September 2025's single-month total exceeded total annual TCPA filings from the early 2010s.[5]
- Through the first nine months of 2025, TCPA class action filings were running more than 90% ahead of 2024's record pace.[5]

2025 Acceleration

- 75-80% of all TCPA lawsuits are filed as class actions, compared to 2-5% for the Fair Debt Collection Practices Act (FDCPA) and 1.4% for the Fair Credit Reporting Act (FCRA).[4]
- This disparity reflects the TCPA's unique damage structure: $500 to $1,500 per violation with no aggregate cap. When multiplied across a class of thousands, a single campaign can generate settlement leverage that dwarfs other consumer protection claims.

Settlement Economics

- The average TCPA class action settlement exceeds $6.6 million.[4]
- Even businesses that successfully defend TCPA cases typically spend six to seven figures in legal fees.[6]
- A single non-compliant SMS campaign targeting 10,000 recipients can generate $5-$15 million in financial exposure before factoring in defense costs.[6]

Professional Plaintiffs

- Analysis of 2024 TCPA filings found that 31-41% were filed by individuals who had previously filed TCPA suits, with some individuals filing dozens of cases over multiple years.[4]
- Professional plaintiffs employ documented tactics to generate litigation opportunities, including maintaining multiple phone numbers across carriers to maximize exposure to non-compliant messages.[4]

Geographic Concentration

- Florida, California, and Texas accounted for 58% of all TCPA filings in 2024, despite representing only 27.6% of the U.S. population.[4]
- Florida's concentration of experienced TCPA plaintiff attorneys, plaintiff-friendly procedural rules, large retiree population (a common target for financial services marketing), and the Florida Telephone Solicitation Act (FTSA) - which provides additional state-law claims on top of federal TCPA - make it the single highest-risk jurisdiction for multi-state franchise networks.[4]

Section 3 How TCPA Liability Applies in Franchise Networks

Direct Franchisee Liability

Every franchisee that sends text messages using an automated platform without documented written consent, without honoring opt-out requests, or outside permitted quiet hours faces direct TCPA liability identical to any other business. The TCPA makes no exception based on company size or franchise structure.

Vicarious Franchisor Liability - The Legal Framework

The more consequential question for franchise leadership is whether a franchisor can be held liable for a franchisee's texting conduct. The FCC's 2013 Declaratory Ruling established that TCPA vicarious liability can arise under three theories:

1. Actual agency	2. Apparent authority	3. Ratification
The franchisor controlled the manner and means of the franchisee's text campaign	Consumers reasonably believed the franchisee was acting on the franchisor's behalf	The franchisor knew of the franchisee's non-compliant texting and accepted its benefits without repudiation

The foundational franchise TCPA case is Thomas v. Taco Bell Corp., 879 F. Supp. 2d 1079 (C.D. Cal. 2012), affirmed 582 F. App'x 678 (9th Cir. 2014). A Chicago-area Taco Bell franchisee advertising association sent promotional texts to 17,000 consumers without consent. The Ninth Circuit affirmed dismissal of Taco Bell Corp. because Taco Bell did not direct or supervise the campaign, and the brand's financial contribution to the advertising fund alone was insufficient to establish agency.[7]

What the case law actually teaches franchisors is not to disengage from franchisee SMS programs; it is to ensure those programs are built on a compliant foundation. The cases where franchisors faced the largest liability - Papa John's ($16.5 million), Keller Williams ($40 million) - shared a common fact pattern: franchisors provided tools, training, or marketing plans that led franchisees into non-compliant texting practices.[8]

The inverse of that risk is the solution: a franchisor that recommends or deploys a purpose-built, TCPA-compliant SMS platform is not creating liability - it is eliminating it. Courts have consistently found that the mechanism of harm matters. Recommending a platform that captures documented written consent, enforces brand-wide opt-out, automates quiet hours compliance, and maintains a complete audit trail is categorically different from recommending a generic blast-text tool with no compliance infrastructure or leaving it to the franchisee's discretion.

Franchisors who standardize texting across their network on a compliant platform accomplish three things simultaneously: they protect franchisees from direct liability, they protect the brand from vicarious liability, and they create the documented compliance record that is the primary defense in any TCPA litigation.

The risk is not franchisor involvement in franchisee SMS. The risk is franchisor involvement in the wrong kind of SMS program.

Section 4 Landmark Franchise Cases Across Industries

Heartland Automotive Services (Jiffy Lube Franchisee)	Keller Williams Realty	Pure Green Franchise Corp.
Settlement **$47 Million**	Settlement **$40 Million**	Status (2025–2026) **Active Litigation**

Heartland Automotive Services (Jiffy Lube Franchisee)

Settlement: $47 Million | Year: 2012 | Industry: Automotive Services

In re Jiffy Lube International, Inc. Text Spam Litigation, U.S. District Court, Southern District of California

Heartland Automotive Services, the largest Jiffy Lube franchisee in the United States, agreed to a $47 million settlement (comprising service certificates valued at $46,844,780 with a cash redemption value of $35,133,585) after sending a single promotional text message to 2.3 million consumers on April 21, 2011.[9]

The text offered a "1 time offer" for 45% off an oil change. Heartland had collected recipients' phone numbers from service invoices and assumed this constituted consent. Courts rejected that assumption.[10] Heartland's argument that the TCPA unconstitutionally restricted its commercial speech was also rejected.

As part of the settlement, Heartland was required to obtain and retain "informed written consent through affirmative action on the part of the consumer through a clear statement regarding the receipt of text message advertisements."[11]

Key legal principle established:

Collecting a customer's phone number during a service visit - even with that customer's knowledge - does not constitute consent for marketing text messages. Consent must be explicitly obtained and documented for that specific marketing purpose.

Keller Williams Realty

Settlement: $40 Million | Year: 2023 | Industry: Real Estate

Deshay et al. v. Keller Williams Realty, Inc., Circuit Court, Nineteenth Judicial Circuit, Indian River County, Florida

Keller Williams, the United States' largest real estate franchise by agent count, agreed to pay $40 million to resolve multiple consolidated TCPA class actions alleging that agents affiliated with KW franchisees made unsolicited prerecorded calls and texts to approximately 2 million consumers, including those on the National Do Not Call Registry.[8]

The complaint alleged that Keller Williams "provided a marketing plan to real estate agents affiliated with its franchisees that involved unsolicited telemarketing," and that the company provided agents access to LandVoice, a lead database that had not been scrubbed against the DNC Registry.[8]

Beyond the monetary settlement, Keller Williams was required to allocate approximately $7.8 million to compliance remediation: creating a TCPA task force, making compliance resources more visible on its internal franchisee platform, and providing additional compliance training materials to franchisees.[8] Plaintiff attorneys received $10.2 million. Approximately 2 million class members received up to $20 each.[12]

The settlement did not close KW's liability. In April 2024, Havassy v. Keller Williams, 2024 WL 1640984 (E.D. Pa. April 16, 2024), a federal court in Pennsylvania denied KW's motion to dismiss, finding the brand could be held responsible for the conduct of affiliated agents in that state.[13] Additional suits were filed in 2023 and 2024.

Key legal principle established:

Providing marketing tools, platforms, training, or lead databases to franchisees or their affiliated agents creates vicarious liability exposure for the franchisor. A paid settlement that does not correct the underlying systemic compliance failure does not end liability.

Pure Green Franchise Corp.

Status: Active Litigation (2025–2026) | Industry: Health & Wellness (Juice Bars)

Pure Green Franchise Corp., a health-focused juice bar franchise with approximately 51 operational units across 25+ U.S. states, is a defendant in an active TCPA class action in federal court in Florida alleging that the brand sent unsolicited automated marketing texts to consumers' mobile phones without consent.[16]

Key principle:

This case against an emerging franchise with 51 locations establishes that TCPA class action exposure does not scale with franchise system size. Small and mid-size franchise brands face the same litigation risk as national chains.

Section 5 The Opt-Out Failure Problem in Franchise Networks

Of all TCPA compliance failures, opt-out handling represents the single highest-risk exposure point in a multi-location franchise network. The legal standard is clear: opt-out requests must be honored immediately and the suppression must propagate across every location and campaign associated with the brand.

Courts have not accepted "we didn't know the other location received a STOP request" as a defense.

The structural problem: Most franchise SMS programs are siloed. When a consumer texts STOP to Location A, that opt-out is recorded locally. Weeks later, Location B - operating on a separate database - sends that consumer a promotional text. The consumer has opted out. The message was sent anyway. This pattern, repeated across hundreds of locations and thousands of customers, generates ongoing, compounding TCPA liability.

Cases directly illustrating opt-out failure risk:

DSW / Designer Brands

$4.42 Million 2025	Settled a class action specifically for continuing to send marketing texts after consumers had opted out. DSW had an opt-out system; it simply failed to propagate opt-outs across all marketing lists and segments.[17]

&Pizza / Ima Pizza LLC

$750,000 2024	Settled after sending marketing texts to consumers who had explicitly opted out. &Pizza operates across Washington D.C., Maryland, Virginia, Pennsylvania, New Jersey, and New York.[18]

Albertsons Companies

$5.9 million 2025	Agreed to pay nearly $6 million to settle a TCPA class action specifically over SMS messages sent after consumers had submitted STOP requests.[19]

The common thread: these companies had opt-out processes. Those processes failed at scale. For a franchise network where locations operate on independent systems or databases, the risk of inter-location opt-out failure is structurally embedded unless the SMS platform is specifically architected to prevent it.

Section 6 10DLC Registration and Its Compliance Significance

Since 2021, major U.S. wireless carriers have required commercial SMS senders to register their brand and messaging campaigns through the 10-Digit Long Code (10DLC) system administered by The Campaign Registry (TCR). This is a carrier-level requirement independent of TCPA, but it intersects significantly with legal defensibility.

What franchises need to know:

- Each commercial SMS sender must register its brand with TCR; each distinct messaging use case (marketing, appointment reminders, transactional alerts) must be registered as a separate campaign
- Non-registered SMS traffic is subject to carrier filtering, blocking, or throttling - meaning non-compliant messages may be silently suppressed without the sender knowing
- T-Mobile and other carriers have published explicit prohibitions against consent-sharing arrangements where one registration covers multiple distinct sending entities
- Failure to register does not itself constitute a TCPA violation, but a franchise network without proper 10DLC registration has no documented audit trail of its SMS program's structure - weakening its defense position in litigation

Section 7 State Mini-TCPA Laws: The Emerging Layered Risk

Federal TCPA liability is only one layer of exposure for multi-state franchise networks. As of mid-2026, numerous states have enacted their own telephone consumer protection statutes that in several cases exceed federal requirements:

Florida Telephone Solicitation Act (FTSA)
Covers any automated system capable of selecting or dialing telephone numbers - a broader definition than the federal ATDS standard. Florida plaintiffs can assert both TCPA and FTSA claims simultaneously, increasing per-violation damages exposure and creating additional procedural advantages for plaintiffs.[20]

Texas Mini-TCPA (SB 140, effective September 2025)
Expanded registration and compliance requirements for businesses engaging in telephone solicitations, including SMS marketing. A November 2025 federal court order clarified that businesses operating consent-based text marketing programs are exempt from the new registration requirement, but the statute continues to create additional compliance obligations for Texas-based recipients.[21]

West Virginia (proposed 2026)
Legislation proposed in 2026 would expand "telephone solicitation" to include surveys, impose a three-call daily cap, and enact criminal penalties for spoofing illustrating the direction of state legislative activity.[22]

For franchise networks operating across multiple states, compliance must be evaluated against the most restrictive state law applicable to each recipient's location, not just federal TCPA.

Section 8 A Compliance Framework for Franchise SMS Programs

The following represents the minimum infrastructure a franchise network should have in place before operating an SMS marketing program.

1. Written Consent Architecture
Every marketing text must be preceded by documented prior express written consent. This means digital opt-in forms with recorded consent language, keyword opt-in SMS flows with confirmation records, and indefinite storage of consent documentation. Providing a phone number at point of sale or enrollment is not consent for marketing texts and must not be treated as such.

2. Brand-Wide Opt-Out Infrastructure

A STOP request at any single location must immediately suppress that consumer's number across every location and campaign in the network. Opt-out records must be maintained in a centralized suppression list that all locations draw from before any message is sent. The system must honor all standard opt-out keywords: STOP, UNSUBSCRIBE, CANCEL, END, QUIT, and REMOVE.

3. Automated Quiet Hours Enforcement

Quiet hours enforcement must be tied to the recipient's local time zone, not the sender's. A franchise network operating across time zones must account for the fact that an 8:00 AM send in Eastern Time is a pre-permitted-hour violation for Mountain and Pacific Time recipients. Enforcement must be automated - it cannot rely on staff to remember to check time zones.

4. 10DLC Registration

All commercial SMS traffic must be sent through properly registered brand and campaign registrations. Campaigns must be accurately described; running a promotional campaign under a transactional registration violates carrier policy.

5. Compliance Audit Trail

Maintain documented records of every consent event, every opt-out event, and every message sent — with timestamps, recipient identifiers, platform IDs, and consent language displayed. This audit trail is the primary defense in TCPA litigation. Its absence is the most common reason defendants settle rather than contest.

6. Franchisee Oversight and Brand-Level Standards

Franchisors that recommend, provide, or fund SMS programs must ensure those programs operate through compliant infrastructure. Provide explicit written compliance guidance to franchisees, contractually prohibit out-of-system independent SMS programs, and conduct periodic compliance audits.

Conclusion

The TCPA litigation environment of 2025 & 2026 is not a temporary phenomenon. The acceleration in class action filings, the increasing sophistication of the plaintiff's bar, the emergence of professional plaintiff networks, and the proliferation of state mini-TCPA laws layered on top of federal requirements represent a structural shift in the compliance risk facing franchise networks of every size.

The franchise model's multi-location structure creates compound exposure that single-location businesses do not face. Siloed opt-out systems, inconsistent consent capture across locations, and franchisor vicarious liability when corporate touches the texting program are franchise-specific vulnerabilities. The cases of Heartland Automotive Services, Keller Williams Realty, Coldwell Banker, and others make the financial stakes concrete: these are not hypothetical risks. They are documented outcomes.

Franchise networks that architect their SMS programs for compliance from the start - with brand-wide opt-out infrastructure, documented consent, automated quiet hours enforcement, and a complete audit trail — are the ones that avoid these outcomes.

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