



Calling Cell Phones: Best Practices for Researchers

Federal law restricts how ANYONE, including survey and opinion researchers, may place calls to cell phones. In addition, because of their mobile nature and certain emerging state laws, researchers are strongly encouraged to follow the ethical guidelines contained herein.

What the federal Telephone Consumer Protection Act (TCPA) Requires

The TCPA forbids calling a cell phone using any automated telephone dialing system (autodialer) without prior express consent. This rule applies to all uses of autodialers and predictive dialers, including survey and opinion research. This applies to intra-state calls, interstate calls and calls from outside the United States and accidental calls are not exempt.

Prior express consent, according to the Federal Communications Commission (FCC), may include cases where the respondent has “knowingly” released their phone number to the calling entity as a number at which they wish to be reached, “absent instructions to the contrary.” However, if a caller’s number is “captured” by a Caller ID or an automated number identification device without notice to the telephone subscriber, “the caller cannot be considered to have given an invitation or permission to receive autodialer” calls.

How to comply with federal law

Although sampling companies can remove cell phone prefixes from samples, and NeuStar has a useful service for recognizing and scrubbing wireless numbers that have been “ported” from landlines, their methods may not be a perfect solution to the problem. MRA recommends that the only certain method to ensure TCPA compliance, in the absence of express prior consent, is to manually dial cell phone numbers (where a human being physically touches the buttons on the phone to dial the number).

Ethical guideline #1: Time of day for cell phones

Researchers should be mindful that a number registered in North Carolina may currently be travelling in China. The best times of day for calling might not always be the best for a cell phone user, so researchers should ascertain, once connected, if it is a good time for the respondent.

Ethical guideline #2: Taking care of respondent safety/privacy

- Respondents reached on cell phones may be operating a car or other potentially harmful machinery, and numerous states have already or are looking to ban the use of cell phones without hands-free devices while driving, biking, or even walking. Researchers might be held liable for inducing respondents to break those laws.
- Cell phone users may be in public places, like a coffee shop, in which they may release sensitive information without thinking about the consequences of doing so within earshot of others.

MRA recommends that researchers leave the responsibility for safety and privacy to the respondents themselves and encourage respondents to consider their own situation by asking about it directly. Also, if the researcher could ask for potentially sensitive information, the respondent should be informed up-front of the content of the survey.

More Information

For more information on laws and best practices impacting research, contact MRA, and consider becoming a [member](#) to get free access to the [MRA Compliance Guide](#).