

NOBLE SYSTEMS

NOBLE COMPLIANCE APPLIANCE® SOLUTION

| Patented Solution for TCPA Wireless Dialing Compliance

Patented Compliance Solutions from Noble Systems

- Manual Dialing Solution
- Compliance Safeguards
- Manage Complex Criteria
- Prevent Unauthorized Calls
- Check Prior Express Consent
- Maintain Do-Not-Call Lists
- Enforce Calling Windows
- Wireline / Wireless Workload Management
- Unified Recording and QA Tools
- Compliance Reporting
- Compliance Server Lock-Down

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Background & Recent Events

The Telephone Consumer Protection Act (TCPA) was passed by the United States Congress in 1991, limiting the use of automated dialing systems and prerecorded voice messages to call mobile phones without prior consent of the called party. Since the TCPA was signed into law, a number of clarifications and interpretations of the statute have occurred that affect the productivity and liability of contact centers. Whether involved in collections, customer service, direct sales, fundraising, market research, or a range of customer contact activities, these rulings can directly impact the way they do business.



Nelson v. Santander

In March of 2013, a federal court ruling in the Western District of Wisconsin expanded the reach of the Telephone Consumer Protection Act (TCPA) by increasing the restrictions on contact centers when communicating with their customers via wireless telephones. The court ruling in the case of *Nelson v Santander* interpreted the law as prohibiting calls made by an automated dialing platform to wireless numbers – even where preview dialing was used to place the call.

Some legal experts believe the court created a potential situation where compliance with one regulation (manual dialing) put organizations at risk for violating many other complex compliance regulations, such as maximum attempts, delays between attempts, calling windows, and so on.

“...the question is not how the defendant made a particular call, but whether the system it used had the ‘capacity’ to make automated calls.”

The Complaint:

The plaintiff alleged that the defendant, an automobile finance company, placed more than 1,026 calls to the plaintiff's cellular telephone number and left 116 prerecorded messages over the course of a year in an attempt to collect a debt on two vehicles the plaintiff had financed. Among other claims, the plaintiff alleged violations of the TCPA.

Background:

The defendant used an automated telephone dialing system for placing outbound calls. The system had the ability to run applications in both preview and predictive dialing modes. The defendant created a list of telephone numbers to be called and used a combination of predictive and preview dialing to call the numbers. In preview dialing mode, the agent pressed one button manually on a computer screen to initiate the call, instead of pressing all 10 digits on the telephone keypad.

Summary Judgment:

The district court granted the plaintiff's motion for summary judgment on the TCPA claim and awarded \$571,000 in statutory damages. (Note: The judgment was vacated in June 2013, as part of a settlement between the parties involved.)

The Court Ruling:

Regardless of whether preview dialing falls outside the scope of the TCPA, the question is not how the defendant made a particular call, but whether the system that was used had the 'capacity' to make automated calls.

The FCC Declaratory Ruling and Order of 2015

On June 18, 2015, the Federal Communications Commission (FCC) adopted an omnibus Declaratory Ruling and Order (the Order) by a 3-2 vote, in an attempt to respond to 21 petitions made by companies and trade associations who sought clarification regarding the requirements of the Telephone Consumer Protection Act of 1991 (TCPA). The FCC's guiding principle for the new ruling can be summarized as follows:

"...if a caller uses an autodialer or prerecorded message to make a non-emergency call to a wireless phone, the caller must have obtained the consumer's prior express consent or face liability for violating the TCPA."

Under the FCC's Order, obtaining consent is the most effective approach for minimizing liability under the TCPA when dialing wireless numbers. A number of provisions in the Order are premised on this guidance, the most important of which are:

- **The definition of an autodialer** – the FCC interpreted the use of "capacity" to store, produce, and dial numbers using a random or sequential number generator in the TCPA to mean "potential ability" to do so, even if this function requires additional software
- **Dialing reassigned wireless numbers** – the FCC clarified that no liability occurs for the first call made via an autodialer to a reassigned wireless number; thereafter, the caller is presumed to have constructive notice that the number dialed has been reassigned
- **Revocation of consent** – the FCC concluded that the most reasonable interpretation of the TCPA's consent requirement is to allow consumers to revoke consent, using any reasonable method (whether oral or in writing), if they decide that they no longer wish to receive calls or texts

A number of parties have challenged the FCC's Order in court, but no further ruling has been issued. Regardless of the outcome, contact center operators must adhere to the FCC's current interpretation of the TCPA.

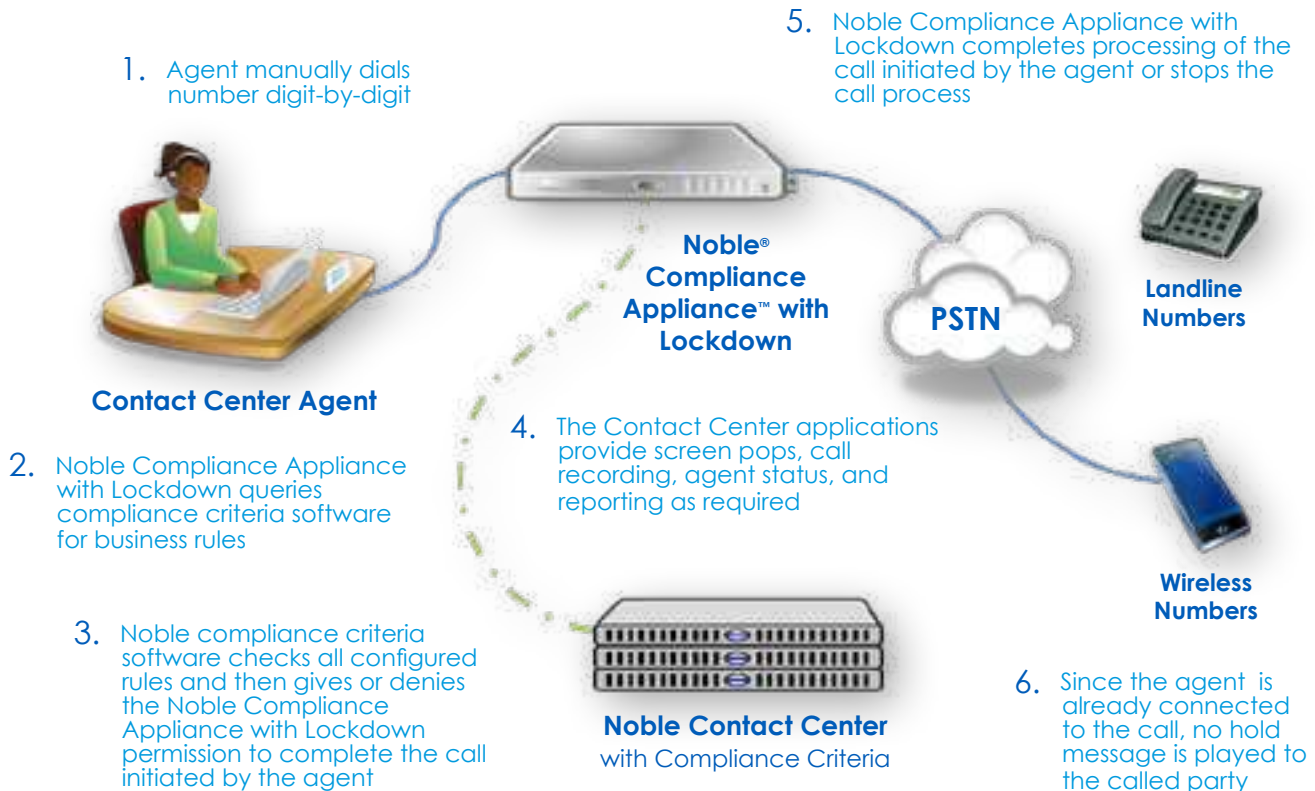
Noble Compliance Appliance® Solution

Noble Systems has developed a revolutionary and patented solution designed to address dialing of mobile phone records in a TCPA compliant manual dialing method, all while keeping track of additional compliance criteria such as time zone rules, maximum attempts, etc, helping your business stay in compliance whether making calls to service new or existing accounts or to develop new customers. The **Noble Compliance Appliance Solution (“Compliance Solution”)** enables contact centers to manually dial wireless numbers via the Noble Compliance Appliance with Lockdown (“Compliance Appliance”), which addresses the issue of potential capacity for autodialer functionality raised by the FCC’s June 2015 Ruling by preventing users from modifying the software, while proactively monitoring the system and detecting changes.

The design of the Compliance Appliance does not include any software that will allow it to randomly generate, store or dial numbers – therefore it is not capable of making automated calls. Any and all methods to modify system software or functionality by the customer are removed – via password protection to ensure no modification to the system’s boot order or port configuration, disabling of external ports and remote interface services, and configuration of the boot device as a read-only chip, among other measures – so the Compliance Appliance with Lockdown has no potential capacity to become an autodialer.

How it Works

Noble’s Compliance Solution utilizes a data-only connection through which the Compliance Appliance queries the **Noble Enterprise Contact Center** platform on a call-by-call basis. The query checks each customer record against a compliance criteria software module to determine if the call is allowed, based on complex user-defined compliance rules. The Compliance Solution also allows contact centers to implement *compliance management safeguards* that block non-compliant manual call attempts through the Compliance Appliance.



The Noble contact center platform can use a Preview Presentation method to control the work assigned to agents or utilize the **Noble Composer Contact Management** application ("Composer") to allow agents to select records from a contact management list.

- Agents are presented with records from user-created contact management queues, or select records from a contact management list
- Customer information is displayed (including wireless numbers and additional numbers) and an initial compliance check is triggered for various user-defined criteria
- The agent receives a visual Pass/Fail notification based on the results of the compliance check, and can initiate the call by manually dialing the number or move on to the next record in the contact management queue or select another record from the contact management list

The Noble Compliance Solution takes additional steps after the agent initiates dialing to ensure that the call is within compliance guidelines. Before the Noble Compliance Appliance completes processing of the agent's call, it queries the Compliance Software module within the Noble Enterprise Contact Center platform to verify that the number dialed by the agent matches the customer record on the Composer screen. The Compliance Solution then checks all other compliance rules associated with the record, including: flags for prior express consent, maximum attempts, calling window, etc. After these checks are completed and the record passes the compliance tests, the Compliance Software module allows the Compliance Appliance to send the call through for connection.

1. Records are presented to agents using a Preview Presentation method



2. The agent manually dials the customer via Noble's Compliance Appliance



3. Noble compliance criteria software verifies that the number dialed on the Compliance Appliance matches the record and checks all compliance criteria

The Noble Compliance Appliance receives validation that the number matches and all compliance tests are passed, and then permits dialing



Quality Assurance & Recording

To assist contact center operators in monitoring and providing evidence of their compliance, the **Noble Recorder** can be leveraged with the Noble Compliance Solution. In this optional configuration, the Noble Compliance Appliance establishes a conference bridge between the Agent's extension, the Outbound trunk, and Noble Recorder. Once the recording path has been established, the Noble Compliance Solution signals the Compliance Appliance that it can now complete processing of the call initiated by the agent.

The recording includes the entire call, beginning with the call progress tones, and including both the agent and debtor sides of the conversation. This unified call recording can be quickly searched, retrieved, reviewed, and exported using Noble's management portal. Customers also have the option of using Noble QA tools to grade the interaction based on user defined quality scorecards.

Regain Productivity with Compliance

An unfortunate side effect of maintaining TCPA compliance is the loss of productivity in the call center, especially if manual call attempts result in a no answer or incomplete contact. To assist contact center operators in recapturing lost productivity from manual dialing requirements, **Noble Contact AI Total Contact** can be leveraged with the Noble Compliance Solution. Contact AI Total Contact helps users increase right party contacts by determining which numbers – mobile vs landline – to call at which time of day to get the most desired result. The system can also split workloads into separate pools, one for predictive dialing on landline numbers and one for manual dialing to mobile contacts, for assignment to workgroups to maximize the productivity of each workgroup.

Contact AI Total Contact provides enhanced analytic capabilities that help you make the most of every contact attempt, for both mobile lines and landlines. This advanced toolset also helps predict how the consumer's behavior may vary once they answer the call, based on the time of day and mode of contact. The combination of these two pieces of powerful information gives contact centers an improved chance of getting a right party contact and getting the outcome that they desire from the call – with a 15%+ lift.

“ Compliance is at the forefront of virtually every contact center conversation today... users rely on Noble to provide them with tools to meet the current regulations, while preparing for the future.

Summary

The TCPA defines restrictions on using automated dialers and predictive pacing to make calls to wireless numbers, without the prior express consent of the customer – whether those calls are attended by an agent or conducted in an unattended blasting mode. The FCC has interpreted this law as precluding use of any type of equipment that has the “capacity” to be used as an automated dialing system, whether the customer is dialed automatically or at the manual request of an agent. Contact centers for collections, service, sales, research, solicitations, and other contact activities need to be prepared to comply with this updated interpretation of the regulations.

The Noble Compliance Appliance Solution uses advanced call screening to dynamically check each number prior to processing the call and can never be modified to enable autodialing functionality, providing companies with a compliance-ready platform to manage their wireless calling. The Compliance Solution helps organizations achieve TCPA compliance by ensuring that...

- Calls to wireless numbers are dialed by a live agent on a digit-by-digit basis via the Compliance Appliance
- No phone numbers (calling lists) are ever stored in the Compliance Appliance, and phone calls are never initiated (randomly or sequentially dialed) by it
- The system is “locked-down” from customer modification – it has no potential capacity to become an autodialer
- Users can configure complex compliance criteria that the Noble Compliance Solution enforces
- Users can monitor and prove compliance with “cradle to grave” call recording, beginning with call progress through the conversation, and to termination
- Users can show compliance with various requirements using the Compliance Solution’s reporting mechanisms to track “actual compliance”
- Compliance programs can be enhanced with the addition of quality, recording, and analytics tools to offset productivity losses that often accompany dialing restrictions

Simply stated, Noble’s Compliance Solution enforces compliance rules by checking each number for compliance before allowing the Noble Compliance Appliance to complete processing of agent-initiated calls. It never *initiates* a call to the PSTN.

Compliance Criteria	Rules Enforced?
Manual Dials do not originate from autodialer/predictive dialer	✓
No “potential capacity” to become an autodialer/predictive dialer	✓
Compliance Appliance with Lockdown does not generate or store numbers to be dialed	✓
Live Agent (always) available for answered calls; no hold messages	✓
No Artificial or Pre-Recorded Messages	✓
Does not increase Target Abandonment Rates	✓
Enforces (National + State + Local) Do-Not-Call Lists + Business Rules	✓
Enforces complex “Maximum Attempts” rules over time spans	✓
Does not break “Delay between Attempts” rules	✓
Enforces “Calling Windows” by Time Zone + Zip Code	✓
Enforces “Call Recording Exclusion” rules	✓
Provides Standardized Compliance Reporting	✓

Important Legal Information

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A Comprehensive Compliance Solution

Federal Regulations: CFR Title 74 Section 64.1200	Noble Systems' Compliance Solutions
No calls using an automatic telephone dialing system or an artificial or prerecorded voice without prior express written consent of the called party.	The Noble Enterprise Solution has built-in number filtering capabilities and has an optional DNC Scrub which performs real-time exclusions based on subscribed lists (from a third party) and company-specific DNC lists. These numbers can be added to a global exclusion list and do not necessarily require the optional DNC Scrub.
No calls using an automatic telephone dialing system or an artificial or prerecorded voice to any emergency telephone line (911, emergency line of a hospital, etc.).	The system can also filter numbers based on prior express consent flags provided in calling lists.
No calls using an automatic telephone dialing system or an artificial or prerecorded voice to the telephone line of any guest room or patient room of a hospital, etc.	These numbers can be added to a global exclusion list and do not necessarily require the optional DNC Scrub.
No calls using an automatic telephone dialing system or artificial or prerecorded voice to any wireless number or service where called party is charged for the call.	The optional Noble DNC Scrub can track wireless numbers using subscriptions to a Wireless List Management Service from Noble Systems or a third party list provider (i.e. CompliancePoint®). The solution can also be deployed with the Noble Compliance Appliance using a data-only connection to confirm complex compliance criteria for a record before allowing the Compliance Appliance to dial.
No calls to wireless numbers ported from wireline service (>15 days ago) if not already on national do-not-call registry or caller's company-specific do-not-call list.	The optional Noble DNC Scrub can track wireline-to-wireless (and vice versa) number porting by using subscriptions to a third party list provider (i.e. CompliancePoint®).
No calls using an automatic telephone dialing systems in such a way that two or more telephone lines of a multi-line business are engaged simultaneously.	The Noble Enterprise Solution has a built-in number filtering capability that addresses this issue.
No person or entity may disconnect an unanswered telemarketing call prior to at least 15 seconds or four (4) rings.	The Noble Enterprise Solution has a built-in "ring count" capability that addresses this issue.
Abandons no more than three percent of all calls answered live by a person, over a 30-day period for a single calling application. "Abandoned" means not connected to a live agent within two (2) seconds of the called person's greeting.	The Noble Enterprise Solution has a built-in "FCC Compliance Lock-Down" capability that keeps abandonment rates in check for individually identified telemarketing applications, or all applications running on the system.
Whenever a live sales representative is not available, within two (2) seconds after called person's completed greeting, caller must provide:	
(A) A prerecorded identification and opt-out message disclosing the call was for "telemarketing purposes" and states the name of the business and number to make a DNC request during regular business hours, and...	The Noble Enterprise Solution has a built-in "FCC Compliance Lock-Down" capability that ensures individually identified telemarketing applications, or all applications running on the system, have a "hold message". The user is responsible for the content of the recording, which can be changed at any time by authorized users.
(B) An automated, interactive opt-out mechanism to make a DNC request prior to terminating the call, record number to seller's DNC list and terminate call.	The Noble Enterprise Solution has a built-in "Self-Service" capability that can be used to create automated and interactive "opt-out call flows" which can update external data sources. The user is responsible for the content of the message and call flow options, which can be changed at any time by authorized users.

Federal Regulations: CFR Title 74 Section 64.1200	Noble Systems' Compliance Solutions
Calls using artificial or prerecorded voice messages with prior express written consent are not considered abandoned if message begins within two (2) seconds of greeting.	The Noble Enterprise Solution has a built-in "FCC Compliance Lock-Down" capability that identifies live answers and answering machines and begins playing the message within 2 seconds of the completed called party greeting.
The seller or telemarketer must maintain records establishing compliance.	The Noble Maestro and Noble Reports Management Portals available for the Noble Enterprise Solution include standardized reports for demonstrating compliance.
No person or entity may initiate any telephone solicitation to any residential telephone subscribers before the hours of 8 a.m. or after 9 p.m. (local time at the called party's location).	The Noble Enterprise Solution includes basic and advanced "dialing window" filters to prevent calling too early or too late. The advanced dialing filters allow users to setup different dialing window rules by area code and exchange. Additionally, the system is capable of checking a number's time zone by the number itself and/or the zip code.
No person or entity may initiate any telephone solicitation to residential telephone numbers registered on the national do-not-call registry.	The Noble Enterprise Solution has built-in number filtering capabilities, and has an optional DNC Scrub which performs real-time exclusions based on subscribed lists (from a third party) and your company-specific DNC lists. The system can also filter numbers based on prior express consent flags provided in calling lists.
Not liable for violating DNC requirement if the violation is the result of error and as part of its routine business practice, it meets the following standards:	
(B) Trained personnel, and any entity assisting in its compliance, in procedures established pursuant to the national do-not-call rules,	The Noble ShiftTrack® workforce management solution is capable of tracking employee training.
(C) It has maintained and recorded a list of telephone numbers that the seller may not contact,	The Noble Enterprise Solution has built-in number filtering capabilities, and has an optional DNC Scrub which performs real-time exclusions based on subscribed lists (from a third party) and your company-specific DNC lists. The system can also filter numbers based on prior express consent flags provided in calling lists.
(D) Documents and uses a process to prevent calls to numbers on the DNC list using a version obtained no more than 31 days prior to the call.	The optional Noble DNC Scrub automatically updates DNC lists via subscriptions to a third party list provider (e.g., CompliancePoint®). Appropriate list subscription(s) and update frequency is offered by the list provider.
Automatic telephone dialing system/autodialer means equipment with capacity to store or produce telephone numbers using a random or sequential number generator and to dial such numbers.	The Noble Compliance Appliance does not have the defined capacity to store or produce telephone numbers or to dial numbers.

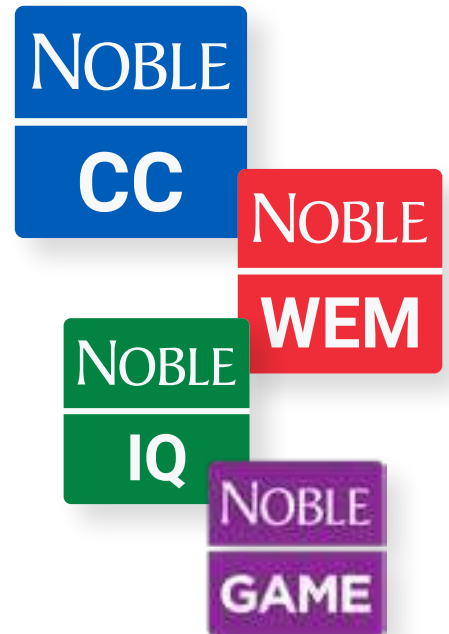
Federal Regulations: Truth in Caller ID Act of 2009	Noble Systems' Compliance Solutions
Amended the Communications Act of 1934 to prohibit any person within the United States, in connection with any telecommunications service or IP-enabled voice service, to cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value	The Noble Enterprise Solution has the capacity to enable authorized users to define the caller number and caller name. It is the responsibility of the user to provide correct and accurate numbers and names to be transmitted. It is important to note that in most parts of the United States, whatever name the local phone company has associated with the Caller ID number used is the name that shows up on the Caller ID display of the called party.

About Noble Systems

Noble Systems is a global leader in the customer communications industry. Founded in 1989, we deliver award-winning contact center solutions for companies across many industries. Our customers value our consultative approach that helps identify needs, define requirements, set goals and find the right solution for their contact center. Our top-notch support teams assist customers with implementation, after-sale service, training, support and maintenance.

Our unified suite of inbound, outbound and blended omnichannel contact processing, strategy planning, resource management, and compliance tools are built for companies of all sizes. Available in on-premise, cloud or hybrid configurations, our patented tools help you increase productivity, reduce operating costs and build a better customer and agent experience.

Noble Systems is committed to providing the highest value, most flexible and feature-rich product solutions. We'll design the just-right solution for you and deliver unbeatable customer service, effectively guaranteeing your satisfaction. We'll do more, we'll do it better and we'll do it for less.



Explore our complete Contact Center, Workforce Engagement, Analytics & Gamification suites:
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