

Scott Delacourt Weighs in on Potential Legal Risks of Mobile Marketing

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Scott Delacourt, a partner in Wiley Rein's Communications Practice, was quoted discussing the potential legal issues posed by mobile advertising. With the continued proliferation of interactive services such as text messaging, social media and various mobile applications, companies have numerous avenues for distributing their advertising content. However, because these services are mobile, those ads can potentially be covered by several state and federal laws and regulations. "Both CAN-SPAM and the TCPA can potentially apply to marketing-related text messages," Mr. Delacourt said. "Text messages can, as a technical matter, be transmitted either to a wireless domain name...or to a mobile telephone number," he continued. "If an SMS message goes to the wireless domain, then CAN-SPAM applies. Otherwise the TCPA applies," Mr. Delacourt said. He referred to *Joffe v. Acacia*—a case involving commercial emails that were converted into text messages—as an example of the distinction. "As a result, a marketer that sends unsolicited text messages could potentially face investigations from regulators at both the FTC and the FCC," he explained.

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Practice Areas

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