

What the U.S. Supreme Court's *Facebook v. Duguid* Decision Means for Businesses

Last week, the Supreme Court handed down a unanimous [decision](#) in *Facebook v. Duguid* that will help to rein in abusive litigation against companies that use different technologies to talk to their customers.

Big picture: The Telephone Consumer Protection Act (TCPA) was written in 1991 to respond to increased telemarketing phone calls. Over the years, the trial bar has exploited loopholes and expansive interpretations of the statute to sue legitimate businesses that use calls and texts to communicate with customers.

Details: There has been a deepening circuit split on the definition of an “automatic telephone dialing system” or ATDS under the TCPA. The Supreme Court unanimously ruled that to qualify as an ATDS, a device must use a random or sequential number generator to store or produce a telephone number.

Why it matters: Companies should be able to communicate with customers without fear of a lawsuit. This decision will help slow down the TCPA lawsuit cottage industry, especially in places like the 9th Circuit.

Bottom line: The decision sets an important precedent, but we expect the trial bar to lobby Congress to amend the TCPA to sidestep the decision. ILR stands at the ready to protect businesses against more lawsuits.

–Harold Kim, President, U.S. Chamber Institute for Legal Reform

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