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New TCPA Battleground Emerges Over Minors' Consent

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David Anthony and Brooke Conkle, attorneys with Troutman Pepper, were quoted in the *Law360* article, "[New TCPA Battleground Emerges Over Minors' Consent](#)."

The FCC often cites contract authority to support its findings, which include its orders that describe consent as flowing from "the customary user or the account holder," David Anthony and Brooke Conkle of Troutman Pepper said in a joint email. In the case of a minor using a cellphone, that definition could apply to either the child as the user or the parent as the account holder, they noted.

Contract law could also provide support to both sides, the attorneys added.

"Under contract principles, affirmative consent would require capacity, meaning that minors could not provide affirmative consent," the Troutman Pepper attorneys said. "Following those same principles, however, minors could not revoke consent, a result that is in tension with the FCC's directive that consumers can revoke consent by any reasonable method. This is further complicated by instances where an intermediary can provide affirmative consent, including in cases of incapacity."

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