

# Mobile Voicemail Messaging: The Legal, Effective Solution

By David King – President and Founder, VoAPPS, Inc.



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## EXECUTIVE SUMMARY

The cell phone is ubiquitous in our country. According to the Pew Research Center, 91 percent of American adults have one.

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We have fused the cell phone to ourselves. Except for when we venture into the most remote locales, we are always connected and can always be contacted.

Federal telecommunications regulations and legislation revere cell phones as sacrosanct, and that's a good thing. Measures such as the Federal Trade Commission's (FTC) National Do Not Call Registry, federal and state Robocall laws and the Telecommunications Consumer Protection Act (TCPA) help prevent companies from disrupting our lives. They help to preserve everything from important meetings to family meals. The laws drastically eliminate who can call us directly on our cell phones.

Because so many people equip themselves with cell phones, those devices are some of the most successful tools a business might have for connecting with a consumer.

It is here that we find a paradox, especially in the Accounts Receivable Management (ARM) or collections space. ARM companies are tasked with collecting debts, and in order to collect debts, they must connect with those who are indebted. If we hold the PEW Research Center's statistic above to be true, 91 percent of those who are indebted have a cell phone. Even more staggering, ARM companies routinely find that 50 to 60 percent of debtors provide only their cellphone number as a contact number regarding the debt.

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So how, then, can the ARM industry (and others like it) reach its debtors in the face of these strict laws?

Enter a new category: Mobile Voicemail Messaging, a technology service solution that drops a pre-recorded voice message directly into a cellphone voicemail box. The consumer's phone is never called, it does not ring, he is not charged for the voicemail delivery and he only becomes aware that he has been contacted when he checks his voicemail messages.

This service is completely legal and designed to be compliant with all federal laws and regulations. That's a bold statement in an industry wrought with uncertainty, conflicting court cases and generally bad case law. The legality of Mobile Voicemail Messaging hinges on two major points: 1) the Federal Communications Commission (FCC) has defined voicemail as an Enhanced Information Service and has chosen not to regulate these enhanced services; and 2) the Mobile Voicemail Messaging service creates a landline to landline call directly to the telephone company's voicemail server, therefore there is no direct contact with the consumer.

***The FCC has chosen not to regulate voicemail messaging.***

Even understanding these legal facts, companies are still wary of Mobile Voicemail Messaging, because they fear that they'll violate laws or that some future litigation will twist the current laws in a way that they somehow are applied to Mobile Voicemail Messaging services.

This white paper demonstrates that fear to be unfounded.

## WHAT IS MOBILE VOICEMAIL MESSAGING?

### How it Works

Let's say a company wants to connect with an individual. Perhaps, for example, the individual is in debt to the company. Mobile Voicemail Messaging allows the company to efficiently and legally contact the individual by placing a voicemail directly into the individual's mobile voicemail box.

The company does this by working with a third party, a voicemail message provider. The voicemail message provider, in turn, creates a landline to landline call directly to the telephone company's voicemail server. There is no direct contact between the message provider and the person for whom the message is intended.

### Industry Example

As you might imagine, this service can apply to a multitude of industries, but it's specifically relevant to the Accounts Receivable Management (ARM) or collections space. ARM is tasked with collecting debts, and in order to collect, it must connect with the debtors. The ubiquitous cellphone has become the chief tool for connecting.

## VOICEMAIL MESSAGING: DESIGNED TO BE 100% COMPLIANT WITH TELECOM LEGISLATION AND REGULATIONS

### Telecommunication Legislation and Regulations

The cell phone enjoys a great deal of protection from federal and state telecommunications laws and regulations. We need only to look at the TCPA and its National Do Not Call Registry, the state-by-state Robocall laws and a host of other regulations from the FTC and the FCC—see the table below—to understand this fact.

However, voicemail is notably exempt from these laws and regulations.

***Voicemail is notably exempt from FTC and FCC laws and regulations.***

### Voicemail Defined: An Enhanced Information Service

In 1980, the FCC released Computer Inquiry II (CEII), which created rules and requirements for the then-budding computer communications industry. CEII defined the difference between basic information services and enhanced information services.

Basic services from common carriers were direct transmissions over transparent paths, such as direct phone calls. Enhanced information services use advanced computer applications to transmit information. The definition for enhanced information services would later apply to transmissions such as email, Voice over Internet Protocol (VoIP) and voicemail.

This classification proved to be very important, because subsequent telecommunications laws and regulations consistently applied to basic services while exempting or making no mention of enhanced information services.

This table describes all the major telecommunications legislation and regulations and explains how Mobile Voicemail Messaging fully complies with them.

LEGISLATION & REGULATIONS	HOW & WHY MOBILE VOICEMAIL MESSAGING COMPLIES
<p><b>Federal Communications Commission (FCC) Computer Inquiry II (1980)</b> – During the time when telephone and computer communications were converging, this inquiry establishes separate regulatory domains between Basic Common Carrier Services and Enhanced Information Services.</p>	<p>Enhanced Information Services—a label later applied to voicemail—are exempt from the rules and regulations.</p>
<p><b>Telecommunications Consumer Protection Act (TCPA) of 1991</b> - In the TCPA, Congress specifically listed the direct services that the legislation applied to: paging services, cellular telephone services, specialized mobile radio services, other radio common carrier services or any services for which the called party is charged for the call.</p>	<p>The TCPA excludes voicemail services under this legislation.</p>
<p><b>Telecommunications Act of 1996</b> – Applies directly to common carrier services</p>	<p>As an Enhanced Information Service, voicemail is not considered a common carrier service. The FCC explicitly stated that these laws do not apply to voicemail.</p>
<p><b>Federal Communications Commission (FCC) Office of Plans and Policy (OPP) Working Papers 29, 31 &amp; 32 (1997 – 1999)</b>– Examined the FCC’s history of not regulating the data services market, which assured that the market, not regulation, allowed innovation to flourish.</p>	<p>All 3 papers defined voicemail as an Enhanced Information Service and explicitly stated that voicemail is not subject to the Telecommunications Act of 1996, which means that no delivery restrictions apply.</p>
<p><b>Federal Communications Commission (FCC) – 2003, 2012 Reports and Order</b> – States the delivery restrictions for pre-recorded messages sent directly to a cell phone number.</p>	<p>The regulations list no restrictions to sending messages directly to voicemail. The FCC has been aware of Mobile Voicemail Messaging services since February 2011 but chose to uphold their long history of not regulating voicemail in their 2012 Report &amp; Order.</p>
<p><b>Federal Trade Commission (FTC) – Fair Debt Collection Practices Act</b> – The FDCPA establishes ethical guidelines for the collection of consumer debts and provides debtors with a means for challenging payoff demands and for determining the validity and accuracy of asserted debts. The act states debt collectors’ contact and content restrictions.</p>	<p>The act lists no restrictions to using voicemail as a channel for contact.</p>

Want to learn more? To receive copies of these regulations or legislation, contact [info@voapps.com](mailto:info@voapps.com).

## DIRECTDROP: THE MOBILE VOICEMAIL MESSAGING SOLUTION

### What Is DirectDROP and How Does it Work?

DirectDROP is the leading Mobile Voicemail Messaging service that places a voicemail into the recipient's mobile voicemail box. There is no call made to the cellphone, because the DirectDROP technology interacts expressly with the telephone company voicemail server, and not with the cellphone. After the voicemail is deposited into the voicemail box, the voicemail subscriber receives the indication—based on his regular voicemail alert system—that he has a message. That message may be managed like any other voicemail. The recipient can play, replay, save, forward or delete it.

This technology provides its users the ability to penetrate cell phones efficiently (delivering hundreds of thousands of voicemails at once) and respectfully.

### Benefits: A Case Study Success Story

DirectDROP has only been in the market for one year, but we have delivered 7.5 million voicemails across numerous industries. Perhaps the most amazing statistic we proudly share is that with all those voicemails, we have had zero complaints.

***To date, DirectDROP has delivered 7.5 million voicemails, across numerous industries, without a complaint.***

When we initially offered DirectDROP, the Student Loans servicing industry was the first space where we found our traction. That was not too surprising. As a reference, the Federal Reserve Bank of New York reports that approximately 37 million student loan borrowers hold outstanding student loans. The Consumer reveals that that debt is approaching \$1.2 trillion. And according to the U.S. Department of Education, the two-year cohort default rate for federal student loans has risen from 9.1 percent to 10 percent between FY 2010 and FY 2011.

This was an industry searching for solutions.

***37 million student loans borrowers collectively hold an outstanding debt approaching \$1.2 trillion.***

We successfully worked with several of the major student loan servicers, and each faced the same daunting issues: communicating with customers and, in some cases, getting them to make payments on delinquent accounts.

One particular client first, it had to differentiate between mobile and landline contact numbers for the delinquent accounts. Secondly, it had to develop a successful strategy for connecting with consumers to communicate about the debt and often to arrange a repayment plan to recover the debt for their client.

After using DirectDROP to scrub the landlines from the mobile contact numbers and then using DirectDROP to deliver hundreds of thousands of voicemails to its consumers, the company has automated a formerly manual process and doubled its response rate.

Most importantly, the client reported that DirectDROP saved the company \$1.5 million per year.

### Conclusion: What This Means for You

The reality is that when a company needs to contact people to conduct its business, antiquated telecommunications laws and regulations govern how and if the company can call those people on their mobile phones.

When we created DirectDROP, thus establishing the Voicemail Messaging category, we vetted the platform and business model through all legal channels. We even reviewed the rules and regulations that apply to DirectDROP with both the FCC and the Consumer Financial Protection Bureau (CFPB). In both meetings, the agencies understood and found no issues with our position. The DirectDROP technology we built is perfectly legal.

What this means for you is that there is not a more defensible and effective solution for contacting individuals in a precise and respectful manner. By using DirectDROP, you can drive more revenue by contacting more mobile phones more efficiently while minimizing your legal exposure.

Learn how VoAPPs can boost your revenue.

If you'd like to discuss any of the approaches or insights in this white paper, we invite you to speak with our team.

**VoAPPs, Inc.**  
Atlanta, GA  
(855) 737-1596 toll free  
Info@voapps.com  
VoAPPs.com

## VOAPPS: INDUSTRY PIONEER IN MOBILE VOICEMAIL MESSAGING

So, how did this all begin?

During the 2008 political campaign season, entrepreneur David King received numerous robocalls from candidates. Convinced that there had to be a better way to communicate these messages than direct dialing, he spent the next two and a half years developing the underlying technology for innovative voice applications such as DirectDROP. Today, VoAPPs is the leader in the voice technology space. The Atlanta-based company mixes its proprietary Adaptive Signaling technology (called Adapti-Sig) with other off-the-shelf voice technologies such as voicemail, IVR and Text-to-Speech, and web-centric data to create effective voice applications and products—including DirectDROP—that enable businesses and consumers to communicate efficiently, naturally and cost effectively.

## ABOUT THE AUTHOR

David King, President and Founder, VoAPPs, Inc.

David King's career spans a remarkable 30 years in the telecom industry, where he has demonstrated a record of thought leadership, innovation and success taking new technology ventures from concept to market with both corporate providers as well as early stage startups. David began at BellSouth, working in a variety of network technology organizations including consumer marketing, product commercialization and corporate strategy. He also served as Vice President of Voice Operations and Access Planning for Broadwing Communications. While at Broadwing, he reorganized the company's voice operations into a single business unit and launched a major network redesign that significantly reduced the access cost of providing data services. Those efforts played a significant role in the eventual sale of Broadwing in June 2003.

In addition to VoAPPs, David has served in executive and founding positions in four telecom startups—Steadfast.net, Cbeyond, KEE Wireless and Vero Systems. He received a bachelor's degree in Electronic Engineering Technology from the University of Memphis and earned his master's degree in Business Administration from Emory University.