

Call Recording Laws Around the World

Why understanding call recording laws is critical to selecting the right call recording solution for your business



Introduction

“This call may be recorded for quality assurance purposes.” Many of us have been on the receiving end of similar phrases on customer support calls. But today, is that statement enough when it comes to global consent for call recording? How can call recording data be used and stored? Why is it important to gather call recording data in the first place?

For decades, recording calls has been a cornerstone of training agents, resolving disputes and ensuring compliance with certain regulations. Today, call recording informs how organizations shape nearly every aspect of their customer experience. Teams can do much more than simply listen to a small, random sampling of customer conversations. Now, every customer interaction across every channel can be leveraged to understand the true voice of the customer (VoC).

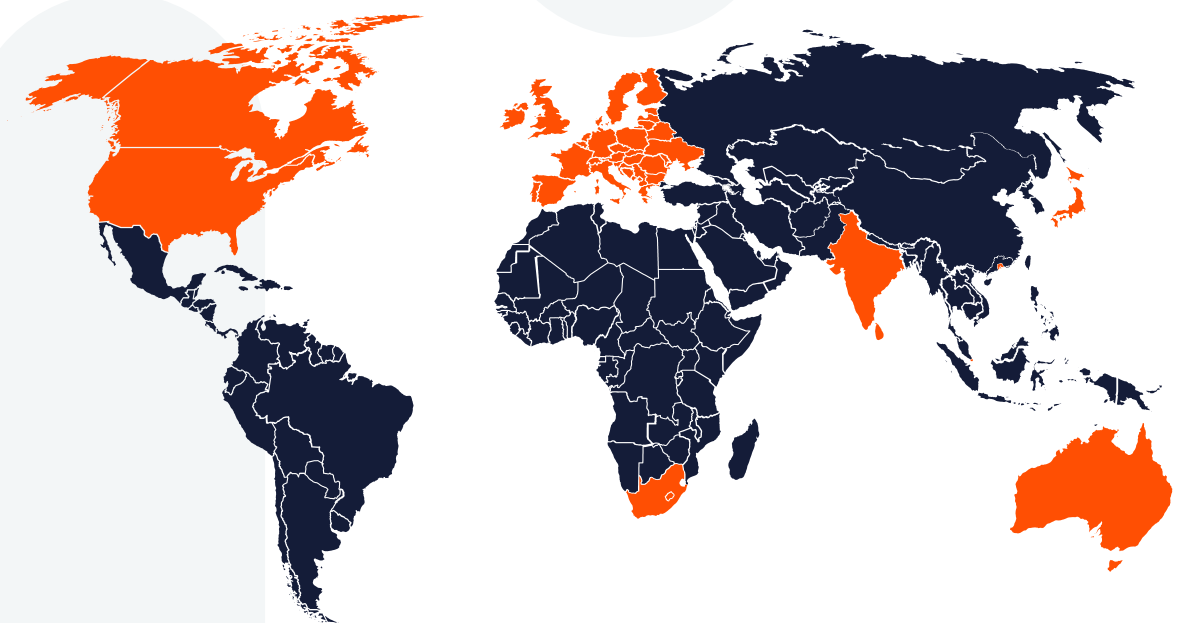
With AI technology, such as conversation intelligence, organizations can extract meaningful insights from the massive volumes of unstructured data contained within call recordings and their derivative transcripts. These insights can be used to drive business improvements across every department – not just customer service.

For example, a product team might learn that customers are consistently requesting a feature, and build that feature into the product roadmap. A marketing team may change a campaign if it’s causing confusion among customers based on their feedback. Or, a sales team may gather valuable competitive intelligence from churn-likely customers. And of course, customer support teams can dive deeper into these insights to drive continuous improvement and compliance.

Even so, any organization that uses call recording software must be aware of the legal requirements in different geographic jurisdictions, from country to country and even from state to state. Failing to comply with these legal restrictions could result in severe penalties, both financial as well as reputational. This eBook covers some of the laws in various countries (and states) related to the use of call recording software. And if there’s one thing to bear in mind, it’s this:

Many countries around the world honor the right of privacy inherent in a telephone conversation between two or more parties.

Following is a summary of call recording laws in:



- **United States**
- **European Union**
- **United Kingdom**
- **Canada**
- **South Africa**
- **India**
- **Australia**
- **Japan**
- **Hong Kong**
- **Singapore**
- **New Zealand**
- **Romania**

Please note that CallMiner is not a legal firm, and this eBook is not intended to provide legal advice. To ensure proper compliance in your region, please contact an attorney.

Call recording laws in the United States

Call recording laws in the U.S. can vary significantly from state to state. Most states require one-party consent, which can come from the person recording the call. However, 11 states require the consent of all parties involved to record the conversation. All-party consent states include: California, Delaware, Florida, Illinois, Maryland, Massachusetts, Montana, Nevada, New Hampshire, Pennsylvania and Washington. Hawaii, in general, is a one-party state, but requires two-party consent if a recording device is installed in a private place.

When recording calls across state lines, it is generally a good rule of thumb to abide by the strictest recording laws that require the consent of every party.

Each state has its own wiretapping statute and its own rule on how many parties need to consent to the recording of a phone call or conversation in order to make it lawful. **State law** also varies on whether or not (and under what circumstances) you are permitted to use recording devices in public meetings and court hearings.

State-by-state recording laws

[Click here](#) to view a state-by-state chart on state-level call recording laws (updated in 2022).

In general, telephone recordings in the U.S. are governed by the following Federal law (with further refinements by individual states):

U.S. Federal law requires that at least one party taking part in a call be notified of the recording. (18 U.S.C. §2511(2)(d)).

Under this law, for example, it is illegal to record, without notification, the phone calls of people who come into a place of business and ask to use the telephone.

Acceptable forms for notification about call recording

The U.S. Federal Communications Commission (FCC) defines accepted forms of notification for telephone recording as:

1. Verbal (oral) notification before the recording is made. Note that this is the most commonly used type of notification. In most cases, this is covered by a “This call may be monitored for training and quality control purposes” disclaimer during customer service calls.
2. Prior verbal (oral) or written notification of all parties to the telephone conversation.
3. An audible beep tone repeated at regular intervals during the call.

Some states are employing their own stringent data privacy regulations, which include call recording. California, for example, is leading the way with its new California Consumer Privacy Act (**CCPA**) which is very similar to the European Union’s General Data Protection Regulation (GDPR). We talk about that in detail below.

Other states have similar laws such as Colorado and its Colorado Privacy Act (**CPA**), and Virginia and its Virginia Consumer Data Protection Act (**VDCPA**). The CPA and VDCPA will go live in 2023. CCPA have been active since 2018.



Call recording laws in the European Union

Much like the differences across states in the U.S., call recording laws can vary from country to country in the European Union (EU). Since the introduction of the General Data Protection Regulation (GDPR), you must get the **consent of the other participant** in a conversation in order to record it. In addition, you must provide a valid reason why the call is being recorded. These reasons can include:

- The call recording is necessary to fulfill a contract or a legal obligation.
- The call recording is necessary to protect the vital interests of one or more participants on the call.
- The call recording is in the public interest or the exercise of official authority.
- The call recording is in the legitimate interests of the recorder or a third party.

Another important consideration is the length of time for which the recording is stored, which can vary from country to country in the EU. Generally speaking, organizations are required to retain their recorded conversations to maintain records of their data processing. They must be able to provide these records to supervisory authorities upon their request. **Data sovereignty** rules require that organizations store records from its citizens within the EU or a jurisdiction with similarly stringent requirements.

Consumers also have the right to request access to their data records from companies, and that includes recorded call data. If a customer requests a call recording, you must fulfill that requirement within 30 days. In addition, the "**Right to be Forgotten**" provision of GDPR empowers individuals to request the deletion of their personal data at any time. Organizations must securely delete recordings once the original purpose for collecting the data has been fulfilled.

MiFID II

Beyond these basic recording requirements, certain industries in the EU are held to more stringent regulations.

For example, in financial services, The **Markets in Financial Instruments Directive II (MiFID II)** requires comprehensive and evidence-proof recording and archiving of calls that may result in transactions regardless of the channel: phone, video call, chat or email.

MiFID II requires that organizations record all calls that will or may result in a transaction, notify the customer that the conversation is being recorded, store all communications for a minimum of five years, and be able to retrieve all communications leading up to a specific transaction or in a given time period (upon request).

Call recording laws in the United Kingdom

Before Brexit, the United Kingdom (UK) followed GDPR rules for call recording. Today, it's a little more complicated. According to the **Investigatory Powers Act (2016)**, a call recording can be made without the consent of the other party if an organization records it in compliance with The Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000. Under which audio can be recorded for the following reasons:

- To prove a business transaction
- Ensure that the business is in compliance with regulatory procedures
- To ensure that quality standards are being met in the interests of national security
- To stop crime or detect the unlawful use of a telecom system
- Ensure the effective operation of the telecom system

An organization can only record phone calls without consent if the information is being used internally for business-related reasons. However, if the business is sharing the information with a third party, whether for marketing reasons or other purposes, they must gain consent.

In addition to these rules, the MiFID II regulations mentioned above are also applicable within the UK financial services sector.



Call recording laws in other regions

While it's impossible to describe all of the call recording laws in effect around the world, we've sampled some different global regulations below. Please consult your business or legal advisor for additional details.

Canada

Yes, record with consent

- Canadian Personal Information Protection and Electronic Documents Act (PIPEDA) mandates: Individuals must be informed that the conversation is being recorded at the beginning of the call. If the caller objects to the recording, the organization should provide the caller with meaningful alternatives (e.g. visiting a retail outlet; writing a letter; or, conducting the transaction over the Internet).
- The individual must be advised of the purposes of the call.

South Africa

Yes, record with consent (some exceptions)

- In South Africa, the recordings of communications are regulated by the Regulation of Interception of Communications and Provision of Communication-Related Information Act of 2002 (RICA) and in terms of the Act, generally, no person may record a conversation without consent.
- In terms of Section 4 of the Act, you may record a conversation without consent if:
 - you are a party to the conversation;
 - you have the prior written consent of at least one of the parties to the conversation; or
 - the conversation relates to, or occurs in the course of, the carrying on of your business.

India

Yes, law is not clear

- The ability to legally record telephone calls is not clear, although the use of recordings in court proceedings has been granted.
- Recording telephone calls can cross the line into privacy issues, especially if consent is not granted by both parties.
- However, there is no absolute mandate on recording calls in general.
- If a call is recorded without the consent, the non-consenting party could claim that their right to privacy was violated, in accordance to Sections 43-A and 72A of the **Information Technology Amended Act 2008** (ITAA)

Japan

Yes record, no consent

- Japan has complicated laws regarding call recording.
- You are allowed to record any call without the other party's knowledge, but legal issues can come into play when/if you decide to broadcast or share these recordings.

Australia

Yes record, with consent in advance

- When recording calls in Australia, the other party must be notified in advance that they are being recorded. The option gives callers an opportunity to make an informed decision about whether they wish to continue the conversation, knowing it is recorded.
- Callers must be given options if they do not wish to be recorded. An alternative is to offer to transfer callers to a non-recorded line.
- In addition, each state within Australia has its own individual laws around call recording, some of which are more strict than others.

Hong Kong

Yes record, no consent

- The Personal Data Privacy Ordinance protects the privacy of living individuals as it relates to personal data in Hong Kong.
- It regulates the use or a recording of a conversation without permission from the parties involved.

Singapore

Yes record, with consent

- If a business is recording a conversation that contains the personal data in the form of audio or video, they must gain consent from the individual being recorded.
- The responsibility to obtain consent falls on the business, rather than an employee of the business. If an employee is acting on behalf of a business, the employee does not have to obtain consent from the individual being recorded.

New Zealand

Yes record, no consent

- Recording of phone calls by private persons falls under interception-related provisions of the Crimes Act 1961, which prohibits the use of interception devices. An exception is made for when the person intercepting the call is a party to the conversation.
- In general, recording of telephone calls related to personal affairs does not violate the Privacy Act, whereas recording for any other purposes would. It is usually considered unfair to record someone without telling them. It can still be legal to record without consent if public interest in the content of the recording is strong enough to outweigh the individual's privacy interest or confidentiality interest.

Romania

Yes record, consent unclear

- Intercepting communications falls under the provisions of the Penal Code, and in the case of electronic communications, under the Telecommunications Act (506/2004).
- The recording of a conversation by a private member to that conversation is specifically permitted.
- While such recordings are legal, using them may fall subject to further civil or criminal law. Making recordings admissible as evidence also depends on the circumstances.

Call recordings: good for business and customers alike

While the global landscape of call recording laws can seem confusing, the software providers in your ecosystem can help you remain in compliance with various recording and data retention regulations. The ability to access 100% of customer conversations in a centralized repository can be invaluable for both compliance and business performance improvements. In addition, if a customer requests their records to be deleted, this can be done quickly and easily.

By applying conversation intelligence to call recording data, understanding your customers has never been clearer. Organizations are supplementing solicited feedback (e.g. obtained through surveys or Net Promoter Scores) with unsolicited feedback from call recordings to gain a holistic picture of the customer experience.

Tapping this data for insights offers major business advantages. Never before has there been an opportunity to analyze your customer interactions at the deepest levels, interpreting nuances and patterns that shed light on new areas of opportunity. From coaching agents, to improving the way that products are built, marketed and sold – these business transformations are a win-win for businesses and customers alike.



About CallMiner

CallMiner is the global leader in conversation intelligence to drive business performance improvement. Powered by artificial intelligence and machine learning, CallMiner delivers the industry's most comprehensive platform to analyze omnichannel customer interactions at scale, allowing organizations to interpret sentiment and identify patterns to reveal deep understanding from every conversation.

By connecting the dots between insights and action, CallMiner enables companies to identify areas of opportunity to drive business improvement, growth and transformational change more effectively than ever before. CallMiner is trusted by the world's leading organizations across retail, financial services, healthcare and insurance, travel and hospitality, and more.



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