



CALL RECORDING LAWS AROUND THE WORLD

A PUBLICATION OF ORECX



THE LEGAL LANDSCAPE OF CALL RECORDING

Call recording software is a powerful tool for any business, enabling you to train and monitor staff, ensure the quality of customer service, acquire valuable customer data, resolve disputes, and so much more.

But any organization that employs call recording software must be aware of the legal requirements that govern the use of call recording in different geographic jurisdictions. Failure to comply with these legal restrictions could result in severe penalties, both financial as well as reputational.

This brief ebook will discuss some of the different 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:





CALL RECORDING IN THE U.S.: PROTECTED BY FEDERAL PRIVACY LAWS

Call recording laws in the U.S. can vary significantly from state to state. For example, 12 states require every party on a call to consent to its recording. “These “**two-party consent**” laws have been adopted in California, Connecticut, Florida, Hawaii, Illinois, Maryland, Massachusetts, Montana, Nevada, New Hampshire, Pennsylvania and Washington.”

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.

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.



CALL RECORDING IN THE UK AND EU

Call recording laws in the U.K. (which includes England, Scotland, Wales and Northern Ireland) and the 28 member countries in the European Union (EU) differ from those in the U.S.

The UK and EU now follow two strict privacy laws which include mandates and guidance for recording calls:

GDPR (General Data Protection Regulation)



MiFID II (Markets in Financial Instruments Directive II)



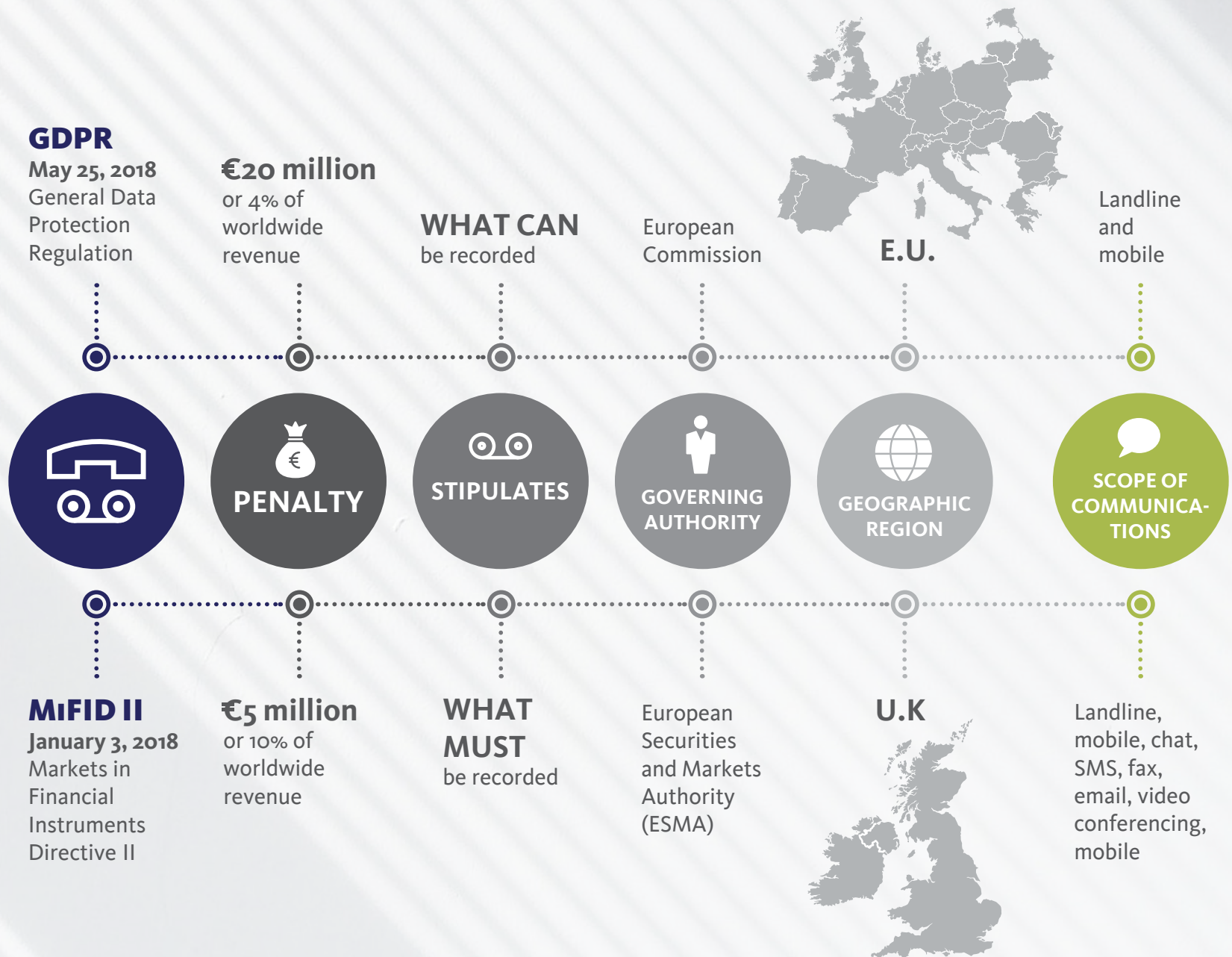
> The next two pages discuss GDPR and MiFID II.



**EUROPEAN
UNION**

28 Nations
28 Anthems

MIFID II AND GDPR



MIFID II AND GDPR



Financial Services - investment firms, trading venues, data reporting service providers, & third-country firms providing investment services

All industries which process personal data

Conditions for Recording

You must record:
Internal calls and electronic communications “intended to result in transactions”

Reception, transmission and execution of client orders

If there is an indication of market abuse behavior present

Transmission of an order to a broker

Discussions around prices, solicitations, bids and/or offers

Dispute resolution evidence

You can only record when:

The people involved in the call have given consent to be recorded

Recording is necessary for the fulfilment of a contract

Recording is necessary for fulfilling a legal requirement

Recording is necessary to protect the interests of one or more participants

Recording is in the public interest, or necessary for the exercise of official authority

Recording is in the legitimate interests of the recorder

Recording Requirements

RECORD every call that leads to a transaction

RETRIEVE – give customers access to recordings when requested

META DATA – make it easy to search for specific recordings

AUDIT TRAIL – track and timestamp when recordings are accessed, played, downloaded

STORAGE – securely store recordings for 5 years (7 upon FCA request)

GDPR Article 30 requires controllers, processors, and their representatives (where applicable) to maintain records of their data processing activities [including recorded phone transactions]

Records [including calls] kept under Article 30 shall be available to supervisory authorities upon their request

Customer Access to Voice Recordings

Customers must be given access upon request.

be given access upon request.

Recording Retention Mandate

5 years

Recordings should not be stored indefinitely. Time limits for erasure should be established.

Securing Recorded Calls

Recordings must be stored in full encryption

Audio recordings must have certain safeguards to protect privacy, such as file encryption

Additional Reading

[MiFID II Call Recording Regulations from ESMA \(pg. 35-42\)](#)

[GDPR: The Contact Centre Conundrum \(GDPR Report\)](#)



CALL RECORDING LAWS IN OTHER REGIONS

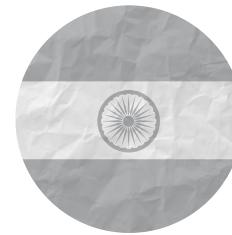
It's impossible to describe all of the call recording laws in effect around the world. Here's a sampling of laws in a handful of countries... please consult your business or legal advisor for additional details:



CANADA

- Canadian Personal Information Protection and Electronic Documents Act 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.

YES RECORD, WITH CONSENT



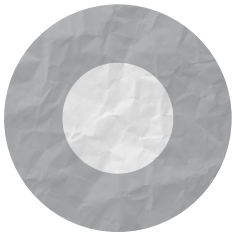
INDIA

- The ability to legally record telephone calls is not clear, although their use 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)

YES RECORD, LAW IS UNCLEAR



CALL RECORDING LAWS IN OTHER REGIONS (CONT'D...)



JAPAN

- Japan has complicated laws about recording phone calls. You're allowed to record any call without the other party knowing, but legal issues come into play when you decide to broadcast and share these recordings.

YES RECORD, WITH CONSENT

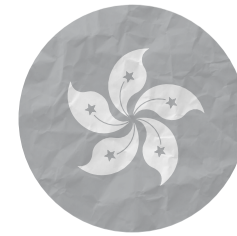


AUSTRALIA

- The federal Telecommunications (Interception and Access) Act 1979 and State and Territory listening devices laws may both apply to monitoring or recording of telephone conversations. The general rule is that the call may not be recorded.

- If a call is to be recorded or monitored, an organization must tell you at the beginning of the conversation so that you have the chance either to end the call, or to ask to be transferred to another line where monitoring or recording does not take place.

NO, CAN'T RECORD



HONG KONG

- The Personal Data (Privacy) Ordinance protects the privacy interests of living individuals in relation to personal data in Hong Kong. It regulates the use of a recording of a conversation without permission from parties involved.

YES RECORD, WITH CONSENT



CALL RECORDING LAWS IN OTHER REGIONS (CONT'D...)



NEW ZEALAND

- Recording of phone calls by private persons falls under interception-related provisions of the Crimes Act 1961, which has a general prohibition on the use of interception devices. An exception is made for when the person intercepting the call is a party to the conversation. There is no requirement that both parties be aware of the interception.

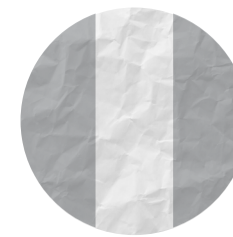
YES RECORD, NO CONSENT



SINGAPORE

- If a person is recording a conversation that contains the personal data of an individual in the form of audio or video recording during their own business, they will be required to obtain consent from the individual.
- However, if the person is recording the conversation on behalf of and for an organization or in their capacity as an employee of that organization, they do not need to obtain consent from the individual. That responsibility falls on the organization.

YES RECORD, CONSENT UNCLEAR



ROMANIA

- 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. Nevertheless, while such recordings are legal, making use of them may fall subject to further civil or criminal law. Their admissibility as evidence also depends on the circumstances.

YES RECORD, CONSENT UNCLEAR

To learn more about OrecX call
recording software, please visit:

orecx.com

You can also reach OrecX directly at
312-945-7622 or sales@orecx.com.



**30 DAY
FREE TRIAL**

OrecX
Open Source Recording

