



October 10, 2024

VIA ELECTRONIC FILING

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Re: In the Matter of Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and Robotexts, Notice of Proposed Rulemaking (CG Docket No. 23-362)

Dear Ms. Dortch:

The U.S. Chamber of Commerce (“Chamber”) respectfully submits these comments to the Federal Communications Commission (“Commission” or “FCC”) in response to the above-titled Notice of Proposed Rulemaking (“NPRM”).¹ The Chamber believes the NPRM is premature and will adversely impact consumers. If the Commission opts to proceed with the NPRM, it should pursue a narrow rulemaking that avoids imposing onerous new requirements on commercial callers.

The Chamber believes the responsible and ethical use of artificial intelligence (“AI”) is critical to unlock innovation and improve the lives of Americans. We are actively engaging with more than a dozen federal agencies’ efforts on AI, as well as various state and international governments. Last year, the Chamber’s Artificial Intelligence Commission on Competitiveness, Inclusion, and Innovation (“Chamber AI Commission”) released a comprehensive report on AI, which, among other policies, called for a gap filling risk-based regulatory framework.²

The Chamber’s response to the Commission’s Notice of Inquiry (“NOI”) noted that “new regulations or legislation to address AI-enabled robocalls or robotexts would be premature” and “the Commission should leverage existing law, collaborate with industry and other governmental entities as well as other stakeholders to further its understanding on AI, and utilize its current enforcement tools to combat bad actors.”³ Further, we agreed that the Commission’s *Declaratory Order* was a helpful step to clarify that AI-generated voices constitute an artificial or recorded voice under the TCPA. We maintain this position and believe that the

¹ *Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and Robotexts*, Notice of Proposed Rulemaking, CG Docket No. 23-362 (rel. July 17, 2024)

² U.S. Chamber of Commerce Commission on Artificial Intelligence Competitiveness, Inclusion, and Innovation, Report and Recommendations (Mar. 9, 2023) (“Chamber AI Commission Report”).

³ Comments of the U.S. Chamber of Commerce, CG Docket No. 23-326, at 1 (filed July 19, 2024).

Declaratory Order is sufficient to address any harmful impacts arising from the using of AI in robocalls and robotexts.

I. New Rules on AI-Enabled Robocalls or Robotexts Are Premature and Will Likely Harm Consumers

The Commission should refrain from proceeding with this NPRM and instead, the Commission should pursue the following:

1. Cataloging existing legal authorities and rules that already cover AI use in robocalls and robotexts;
2. Appropriately enforce those laws and regulations, while conducting an analysis if any gaps exist; and
3. Continue to evaluate potential consumer benefits of AI and how that balances against any potential novel risks.

The Chamber believes the risks posed by AI-enabled robocalls and robotexts do not merit new regulations. The record, reinforced by comments to the NOI, contains limited evidence that the impact of AI-enabled robocalls and robotexts require new regulations.⁴ Further, the record indicates that, at this point, existing regulations and frameworks are sufficient to address any new risks.⁵ In particular, recent state-level investigations triggered by high-profile uses of AI in the robocall context and Commission enforcement actions strongly indicate that existing rules are sufficient to address AI risks.⁶ Moreover, consumers can opt to join the Federal Trade Commission's *The National Do Not Call Registry*, which empowers to consumers to prevent unwanted calls, AI-generated and not, from certain telemarketers.⁷

Second, given the evolving nature of AI technologies, it is unclear to what extent new regulations would be effective. Instead, the Commission should continue to gather information on the risks and benefits of AI-enabled robocalls and robotexts and take appropriate enforcement actions within their existing regulatory authority to address concrete AI risks.

⁴ See Comments of the Electronic Privacy Information Center, CG Docket No. 23-362, at 2 (filed Dec. 18, 2023) (“EPIC cites to a report on the impact of generative AI. However, the discussion on the impact of generative AI to scams only cites to a 2021 research paper that focuses phishing emails, not robocalls or robotexts”).

⁵ Comments of CTIA – The Wireless Association, CG Docket No. 23-362, at 2 (filed Dec. 18, 2023) (“CTIA Comments”); Comments of USTelecom – the Broadband Association, CG Docket No. 23-362, at 3 (filed Dec. 18, 2023) (“USTelecom Comments”); Comments of INCOMPAS, CG Docket No. 23-362, at 3 (filed Jan. 23, 2023).

⁶ Tiffany Hsu, *New Hampshire Officials to Investigate A.I. Robocalls Mimicking Biden*, THE NEW YORK TIMES (Jan. 22, 2024), <https://www.nytimes.com/2024/01/22/business/media/biden-robocall-ai-new-hampshire.html>; *In the Matter of Lingo Telecom*, LCC, Order and Consent Decree, FCC 24-60, 2024 WL 2828369 (EB 2024).

⁷ National Do Not Call Registry, Federal Trade Commission, <https://www.donotcall.gov/> (accessed Oct. 10, 2024).

Third, the record clearly shows the benefits of using AI including for robocall enforcement and mitigation and to provide novel communications tools for consumers. AI tools can help detect and detail the tactics of fraudsters or be programmed to avoid calling customers who have not provided consent.⁸ For instance, this technology can be used to better execute do not call lists and help reduce the number of unwanted robocalls and robotexts. Moreover, AI is used broadly to improve the consumer experience through better customer service and improved privacy.⁹ Consequently, the Commission should be wary of imposing new rules that could hinder the deployment of AI tools.

II. If New Rules Are Pursued, the Commission Should Keep the Following Considerations in Mind

Although the Chamber opposes proceeding with the NPRM, if the Commission opts to impose new rules on AI-enabled robocalls and robotexts, it should consider the following considerations.

First, the Commission should ensure any rules are narrowly focused to minimize unintended consequences. This is particularly important in the definition of an “AI generated call” given the definition of AI is itself unclear. The Commission’s definition is excessively broad using terms such as “computational technology” and “predictive algorithms” that encompass non-AI technologies. The definition should be further clarified that AI-generated calls do not include calls scripted by a human considering the central role of a human in developing the content a script.

Second, the Commission proposes callers obtain separate consent to receive an AI-generated artificial or prerecorded voice. The Chamber opposes this requirement. This requirement implies that AI-enabled communications inherently create a special level of risk that merits additional disclosure. This establishes a misperception that AI-generated calls and texts pose more risks than they do and will disincentive the use of AI technologies by the caller community. Both impacts would hinder the adoption of innovative AI technologies that could benefit consumers and create efficiencies for the caller community. Moreover, the record contains insufficient evidence that AI merits a specific and additional disclosure requirement.

Moreover, it also creates a significant compliance concern for callers who will have to seek new consent from all their customers if the caller wishes to use an AI-generated call or text. This is a burdensome requirement that will disincentivize deployment of AI technologies for legitimate law-abiding callers and will create consumer confusion on why a consumer needs to provide new consent. Further, this creates significant liability risk for callers given the TCPA’s private right of action. The Commission should explicitly clarify that callers do not need obtain

⁸ US Telecom Comments at 2; CTIA Comments at 5-6.

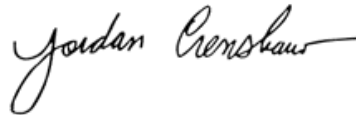
⁹ CTIA Comments at 5; Comments of the Microsoft Corporation, CG Docket No. 23-362, at 2 (filed Dec. 18, 2023) (“Microsoft Comments”).

separate consent for AI-generated calls and texts for customers that have already provided consent under existing law.

III. Conclusion

We appreciate the Commission's consideration of our comments to this NPRM. If you have any questions, please do not hesitate to reach out to Matt Furlow, Senior Director and Policy Counsel, at mfurlow@uschamber.com.

Sincerely,

A handwritten signature in black ink that reads "Jordan Crenshaw". The signature is written in a cursive, flowing style.

Jordan Crenshaw
Senior Vice President
Chamber Technology Engagement Center
U.S. Chamber of Commerce