

April 16, 2021 TCPA Regulatory Update

Article By:

Russell H. Fox

Jonathan P. Garvin

Lawmakers Respond to SCOTUS *Facebook* Auto-Dialer Ruling

A bipartisan, bicameral group of [lawmakers](#) from the House Energy and Commerce Committee, including Chairman Rep. Frank Pallone (D-NJ) and Communications Subcommittee Ranking Member Sen. John Thune (R-SD), jointly responded to the Supreme Court's *Facebook v. Duguid* ruling saying that they will be "closely following the impact of the Court's decision on consumers." As we [explained previously](#), in the *Facebook* ruling, the Supreme Court held that under the TCPA's definition of an autodialer, a device must use a random or sequential number generator in all cases whether storing or dialing telephone numbers. In their statement, the group expressed concerns that "[t]he Supreme Court's ruling . . . may allow scammers to send out a barrage of texts or calls without fear of reprisal or consequence. . . . We know the last thing Americans need right now is an onslaught of texts or calls from scammers trying to swindle them out of their hard-earned money." In addition to joining his fellow members of Congress, Senator Ed Markey (D-MA), one of the original authors of the TCPA, along with Anna Eshoo (D-CA) separately responded to the ruling calling it "disastrous for everyone who has a mobile phone in the United States." The Statement promised to introduce legislation soon to "fix the Court's error and protect consumers" stating "[f]ortunately we can and will act to make right what the Supreme Court got wrong."

Dates Set for Compliance with TRACED Act

Voice service providers must comply with Federal Communications Commission ("FCC") rules implementing Section 10 of the Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act by May 6, 2021. As we [reported](#) earlier this year, the Commission's [Fourth Report and Order](#), published in the *Federal Register* on April 6, requires voice service providers to comply with several new requirements, including assisting the Commission, law enforcement, and the private USTelecom Industry Trackback Consortium in tracking unlawful calls, responding to FCC Enforcement Bureau notices of illegal traffic, and establishing processes for callers to dispute erroneous call blocking. The Commission's Order also added network-based blocking that relies on reasonable analytics incorporating caller ID authentication as a call-blocking safe harbor. The published Order also imposes a January 1, 2022, deadline for providers to implement Commission requirements to notify callers immediately when calls are blocked and to perform the software upgrades necessary to implement the required immediate blocking notifications properly.

National Law Review, Volume XI, Number 106

Source URL: <https://natlawreview.com/article/april-16-2021-tcpa-regulatory-update>