FCC Launches Inquiry into the Risks of AI on Unwanted Robocalls and Texts

Article By:

Douglas A. "Drew" Svor

Abraham J. Shanedling

Jodi Goldberg

Consistent with the White House's Executive Order this week laying out a national policy on AI, the Federal Communications Commission ("FCC") released a draft Notice of Inquiry ("NOI") that would look into the implications of emerging Artificial Intelligence ("AI") technologies on the Commission's efforts to prevent unwanted and illegal calls and texts under the Telephone Consumer Protection Act ("TCPA").

The TCPA already prohibits unwanted calls and texts using an "automatic telephone dialing system" or containing an artificial or prerecorded voice—and the FCC's authority under the TCPA therefore already encompasses *current* AI technologies that generate human voices. But the NOI would examine whether the Commission should consider other definitions of AI to account for potential new developments in generative AI technology – such as it functioning as the equivalent to a live agent – that could be beyond the scope of existing TCPA protections. For example, the Commission would ask whether AI that can alter a live speaker's

voice so it sounds like a different person always constitutes an artificial or prerecorded voice under the TCPA.

The FCC's NOI also would seek comment on any potential benefits and risks that AI technologies could create for consumers regarding unwanted robocalls and texts. For example, the FCC would examine how AI could enable calling platforms to tailor messages to individual recipients in more helpful ways that are consistent with TCPA protections or how AI technology could be used to help recognize and block scam or other unwanted calls before they reach consumers. The FCC also would seek comment on whether AI could help ensure that people with disabilities are able to exercise their right to revoke consent to future calls and messages.

On the flip side, the NOI would seek information on ways that AI is used or could be used disruptively to make illegal, fraudulent, or otherwise unwanted robocalls and robotexts, such as to avoid blocking systems or by enabling bad actors to increase call volumes. In line with the White House's [Executive Order](), the FCC also would ask whether it should consider ways to verify the authenticity of legitimately generated AI voice or text from trusted sources, such as through the use of watermarks, certificates, or other forms of labels.

With its NOI, the FCC further would seek comment on whether its existing authority under the TCPA – to make "technical and procedural standards for systems that are used to transmit any artificial or prerecorded voice message via telephone" – sufficiently allows the Commission to ensure that emerging AI technology does not erode consumer protections under the TCPA or other consumer protection statutes. For instance, the NOI would ask whether the FCC should (or could) require callers employing AI-generated

voices to make certain disclosures to consumers or to use "digital watermarks" to indicate that the voice on a robocall is generated by AI instead of a live human.

Finally, the FCC would seek comment on how it should stay informed of relevant emerging AI technologies, such as through joint efforts with federal and state agencies, universities, and cooperation with private industry, including AI developers.

"AI is a real opportunity for communications to become more efficient, more impactful, and more resilient," said FCC Chairwomen Jessica Rosenworcel, [commenting](#) on the release of the draft NOI. "While we are aware of the challenges AI can present, there is also significant potential to use this technology to benefit communications networks and their customers—including in the fight against junk robocalls and robotexts.

The FCC will vote on the NOI at the Commission's upcoming November 15, 2023, Open Meeting. Comment dates will be established upon the adoption of the NOI.

Tifenn Drouaud contributed to this article.

Source URL:https://natlawreview.com/article/fcc-launches-inquiry-risks-ai-unwanted-robocalls-and-texts