

TCPA Regulatory Update: FCC Allows Default Call Blocking Services, Plans SHAKEN/STIR Summit

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After Addressing Concerns from Stakeholders, FCC Adopts Revised Declaratory Ruling and Third Further Notice on Default Call Blocking

It's been a busy month on the robocall front! Since our last monthly digest, the FCC circulated a draft and later adopted a final version of a Declaratory Ruling and Third Further Notice of Proposed Rulemaking addressing robocall blocking. In the Declaratory Ruling, the FCC clarified that voice service providers may offer default call blocking to their customers, so long as their customers are informed and have the opportunity to *opt-out* of the blocking. It also permitted voice service providers to offer the option to block calls from any number that does not appear on a customer's "white list" or contacts list, on an *opt-in* basis. The Third Further Notice of Proposed Rulemaking (Third FNPRM) proposes the creation of a safe harbor for voice service providers that block calls for which Caller ID authentication fails and seeks comment on extending the safe harbor to the blocking of unsigned calls. It also proposes requiring voice service providers that block calls to ensure that emergency calls reach consumers and seeks comment on protections and remedies for callers whose calls are erroneously blocked. In a significant departure from the draft version of the Third FNPRM, the final version proposes that if major voice service providers fail to meet an end of 2019 deadline to implement SHAKEN/STIR, the Commission would require implementation of that framework.

The [draft item](#), released on May 16, was met with significant pushback from stakeholders. Most groups generally supported the Commission's goal of reducing unwanted and illegal robocalls but expressed concerns about the unintended consequences of the proposals in the Declaratory Ruling and Third FNPRM. Many argued that default opt-out call blocking - particularly based on "reasonable analytics," as permitted in the draft Declaratory Ruling - was likely to lead to erroneous false positives and blocking, which would ultimately harm consumers by blocking wanted and urgent calls affecting consumer health, safety, and financial well-being. Some commenters asked the Commission to require voice service providers to send an intercept message to inform callers and called parties when blocking has occurred. Others asked the Commission to ensure that the technical systems adopted to eliminate robocalls treat all legitimate providers equally. Many commenters also asked the Commission to ensure that there be some formal mechanism for legitimate callers who believe their calls were erroneously blocked to lodge a complaint. Others argued that opt-out call blocking violated the Communications Act and Commission precedent because it goes far beyond the 'certain, well-defined circumstances' for call blocking that the Commission has previously articulated. In light of these issues, several parties asked the Commission to develop a full record in this proceeding, rather than adopt a Declaratory Ruling.

Based on these concerns, and those raised by some commissioners, the FCC made several significant adjustments from the draft when it [adopted](#) the item at its June 6 Open Commission meeting. In the Declaratory Ruling, the FCC added that in order to be considered reasonable, analytics must be applied in a non-discriminatory and competitively neutral manner. It also said that voice service providers should make all feasible



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efforts for tools to avoid blocking emergency calls. The FCC revised certain wording to allow voice service providers to offer programs to block “unwanted calls,” rather than “calls appearing to be illegal.” Based on concerns from stakeholders, and spearheaded by Commissioner Michael O’Rielly, the FCC added an explanation that a reasonable call blocking program instituted by default should include a point of contact for legitimate callers to report what they believe to be erroneous blocking, as well as a mechanism for such complaints to be resolved. Callers who believe their calls have been unfairly blocked will also be able to seek review with the FCC by filing a petition for declaratory ruling. The FCC also encourages voice service providers to develop a mechanism to notify callers that their calls have been blocked, and it noted that industry has been active in developing solutions that allow callers to communicate with voice service providers and analytics companies to share their call patterns that may otherwise seem to indicate illegal caller activity.

As noted above, the most significant addition to the Third FNPRM is that the FCC proposes that if major voice service providers fail to meet an end of 2019 deadline to implement SHAKEN/STIR, the Commission would require implementation of that framework. This development paves the way for the FCC to carry out an earlier statement released by Chairman Pai – and detailed in the [February Digest](#) – stating that if a call authentication system will not be on track to get up and running this year, the FCC “will take action to make sure that it does.” The addition of this language to the Third FNPRM also makes the FCC action far more similar to the TRACED Act, which passed the Senate in late May, and would also mandate SHAKEN/STIR adoption by voice service providers. TRACED, however, takes a slightly different approach from the FCC item on several other issues, such as the scope of the safe harbor.

Commissioner Starks Seeks More Info on Carrier Default Call Blocking

On the heels of the Commission’s adoption of the above Declaratory Ruling and Third FNPRM, Commissioner Geoffrey Starks sent [letters](#) to 14 major voice service providers seeking details about their plans to offer free, default call blocking services to consumers to combat disruptive and dangerous robocalls. Specifically, the letters ask the companies to:

- Indicate whether they will offer customers default call blocking services on an informed opt-out basis and, if so, provide details of plans to deploy these services, including a timeline for implementation.
- Describe how they intend to inform consumers about these services.
- Indicate whether they expect to act contrary to the Commission’s clear expectations and nevertheless charge customers for these services.
- If they do not currently plan to offer customers default call blocking services on an informed opt-out basis, explain why.

Responses will be due on July 10.

FCC to Host SHAKEN/STIR Summit on July 11

With the push toward SHAKEN/STIR implementation by year-end in full swing, the FCC is ramping up its efforts and resources to equip voice service providers to implement Caller ID authentication. The FCC will host a summit on July 11 to look at carrier progress in implementing SHAKEN/STIR, showcase the progress that major providers have made toward reaching that goal, and provide an opportunity to identify any challenges to implementation and how best to overcome them.

The summit will feature stakeholder discussions of:

- lessons learned from major voice service providers that have begun to deploy call authentication technology in their own networks and test inter-carrier call signing;
- the technical barriers, if any, to deployment of SHAKEN/STIR by other major voice service providers;
- challenges to deployment faced by smaller voice service providers; and
- the use of call authentication to reduce spoofed robocalls and improve the consumer experience.

The FCC welcomes participation from a variety of stakeholders, such as voice service providers, equipment manufacturers, consumer groups, entities involved in SHAKEN/STIR governance, state government entities, technologists, and others.

FCC Evaluates Responses to Petitions for Reconsideration from the Reassigned

Numbers Database Second Report and Order

As we wrote in [last month's TCPA Digest](#), two Petitions for Reconsideration were filed by the [Professional Association for Consumer Engagement](#) (PACE) and a group of [Joint Petitioners](#) comprised of the Competitive Carriers Association, CTIA, and USTelecom, addressing parts of the FCC's plan to establish a comprehensive Reassigned Numbers Database. The petitions responded to the FCC's December 2018 [Second Report and Order](#). The comment cycle on these petitions ended in early June, and the Commission is now reviewing the handful of comments and replies it received.

NCTA - The Internet & Television Association opposed the PACE petition, which asked the FCC to exclude business landlines and toll-free numbers from the Reassigned Numbers Database, arguing that it would reduce the effectiveness of the database and would increase costs for voice service providers by requiring them "to separate out business numbers and tailor their reporting only to consumer numbers." Somos, Inc., which serves as a Toll-Free Numbering Administrator, explained that its own experience shows that the requirement to report toll-free number disconnect data is not burdensome, contrary to PACE's assertion in its petition. Noble Systems Corporation, however, supported the PACE petition proposal to exclude business landlines and toll-free numbers and modify the order's safe harbor language.

NetNumber, Inc. supported the petition filed by Joint Petitioners, arguing that the decision to merge the database with the North American Numbering Plan Administrator (NANPA) and Pooling Administrator (PA) under a single contract and single administrator appears to be premature. On the other hand, Somos, Inc. opposed the petition, arguing that it would unnecessarily halt the database's progress. The Joint Petitioners filed reply comments defending their petition to bifurcate the NANPA and PA functions, and arguing that it will actually accelerate development of a Reassigned Numbers Database. iconectiv, LLC also filed reply comments in support of the Joint Petition, emphasizing its narrow scope, but explained that it does not think reconsideration is necessary as it does not believe the FCC intended to bind its future contracting decisions.

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