

TCPA Regulatory Update — FCC Releases Public Notice on Soundboard Technology and List of Recommendations on Robocall Blocking



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It's been another month of watching and waiting in TCPA-land. The FCC did not take many major actions this month on the TCPA. It did, however, release a [Public Notice](#) seeking comment on a [Petition for Declaratory Ruling or, in the Alternative, Retroactive Waiver](#) filed by Yodel Technologies LLC (Yodel) in September. Specifically, the Petition asked the FCC to clarify that the “use of soundboard or so-called avatar technology — affording the capability for a high degree of human interaction between a live caller using a suite of, in many cases brief, prerecorded voice messages — is not a prerecorded call of the type prohibited by” the

TCPA. Yodel also requested that the FCC grant it a retroactive waiver of the TCPA's prerecorded call prohibitions for Yodel's use of soundboard technology prior to May 12, 2017. Comments on the Petition are due on October 21 and replies are due on November 4. This is not the first Petition for Declaratory Ruling that the FCC has received on soundboard technology. In January, [NorthStar Alarm Services, LLC](#) filed a Petition asking for a similar clarification, and the FCC released a [Public Notice](#) in February. It has not yet ruled on the Petition.

Additionally, the FCC's Consumer Advisory Committee ("Committee") released a [list of recommendations](#) regarding call blocking notifications, educational efforts, and the Critical Calls List. The recommendations are intended to supplement the FCC's recent decision to give providers greater leeway to block robocalls, including based on reasonable analytics and relying on opt-out consent. The Committee said that consumers should be given the opportunity to exercise their preferences with respect to call-blocking and should be aware of the option to opt out. The Committee also emphasized that stakeholders should ensure that call-blocking does not lead to the inadvertent interception of emergency calls, and the FCC's proposed Critical Calls List should effectuate this. Among other things, the Committee suggested that:

- Consumers should be notified if calls intended for them are blocked, through a blocked call log or similar tools.
- Providers should supply consumers with clear disclosures with respect to the types of calls (spam, scam, etc.) that may be blocked, in addition to warning them that wanted calls may be inadvertently blocked.
- The FCC should use its educational resources and collaborate with the Federal Trade Commission, consumer advocacy groups, industry, and state Attorneys General to ensure maximum reach in educating consumers about the robocall blocking options available to them.
- Critical Calls List inclusion criteria should remain as narrow as possible and include only critical emergency calls.
- The FCC or another central authority should update the Critical Calls List to ensure that important numbers that were not originally included in the List are not blocked, while also ensuring that non-emergency calls are not added to the List.
- Each voice service provider should consider whether to offer to consumers the option to maintain their own Critical Calls List and, if offered, the extent to which consumers would be able to customize those lists. This list could, for example, include each consumer's schools, campus police, or other personal priority numbers.
- The FCC should investigate whether existing tools such as analytics and SHAKEN/STIR implementation may obviate the need for a Critical Calls List.

Finally, stakeholders from the banking and alarm company industries met with staff from the FCC over the past month to express how recent FCC decisions and

interpretations would negatively impact their ability to send time-critical, non-telemarketing communications to their customers.

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