



# PUBLIC NOTICE

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## CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU ANNOUNCES COMPLIANCE DATE FOR AMENDED TELEPHONE CONSUMER PROTECTION ACT RULES ON PRERECORDED CALLS

### CG Docket No. 02-278

On December 30, 2020, the Commission released the *TCPA Exemptions Order* to implement section 8 of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act).<sup>1</sup> In that rulemaking, the Commission amended the Telephone Consumer Protection Act (TCPA)<sup>2</sup> rules related to exemptions for non-commercial calls to residential numbers; commercial calls to residential numbers that do not include an advertisement or constitute telemarketing; tax-exempt nonprofit organization calls to residential numbers; and Health Insurance Portability and Accountability Act (HIPAA)-related calls to residential numbers.<sup>3</sup>

Specifically, the Commission adopted numerical limits on exempted artificial or prerecorded voice calls to residential lines (three calls per thirty-day period for most types of calls and one call per day, up to three calls per seven-day period for certain HIPAA-related calls). The Commission also required callers making such exempt calls to allow consumers to opt out of any future calls that they do not wish to receive.<sup>4</sup> These rule changes resulted in modified information collection requirements under the Paperwork Reduction Act of 1995, which the Office of Management and Budget (OMB) approved on September 15, 2021.<sup>5</sup> The Commission explained in the *TCPA Exemptions Order* that it would publish in the Federal Register a compliance date for the amended rules, which would be six months following the date of publication.<sup>6</sup>

<sup>1</sup> Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, Pub. L. No. 116-105, 133 Stat. 3274, § 8 (2019) (TRACED Act).

<sup>2</sup> Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, 105 Stat. 2394 (1991), *codified at* 47 U.S.C. § 227 (TCPA); 47 CFR § 64.1200 *et seq.*

<sup>3</sup> *See Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 35 FCC Rcd 15188 (2020) (*TCPA Exemptions Order*).

<sup>4</sup> *Id.* As part of the *TCPA Exemptions Order*, the Commission also codified in its rules the existing exemptions for certain types of calls to wireless numbers, including calls by package delivery companies, financial institutions, prison inmate calling services, and healthcare providers. *See* Federal Communications Commission, *Limits on Exempted Calls Under the Telephone Consumer Protection Act of 1991*, 86 FR 11443 (Feb. 25, 2021).

<sup>5</sup> *See* Pub. L. No. 104-13, 109 Stat. 163 (1995) (codified at 44 U.S.C. §§ 3501-3520); Notice of Office of Management and Budget Action, OMB Control No. 3060-0519 (approved Sept. 15, 2021), available at [https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=202107-3060-001](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202107-3060-001).

<sup>6</sup> *See T CPA Exemptions Order*, 35 FCC Rcd at 15200, para. 42 (stating that callers will have six months from publication of such notification in the Federal Register to come into compliance with the amended rules).

After the Commission released the *TCPA Exemptions Order*, two parties asked the Commission to reconsider the new requirements.<sup>7</sup> On December 27, 2022, the Commission released an Order on Reconsideration and Declaratory Ruling amending the rules to allow callers the option of obtaining either oral or written consent if they wish to make more calls than the numerical limits on exempted artificial or prerecorded voice message calls to residential telephone lines and affirming the numerical limits and opt-out requirements on such calls.<sup>8</sup> OMB approved this non-substantive rule change on January 4, 2023.

On January 20, 2023, the Commission announced in the Federal Register that compliance with the amendments to 47 CFR §§ 64.1200(a)(3), (a)(3)(ii) through (v), (b)(2), (b)(3), and (d) is required as of July 20, 2023.<sup>9</sup>

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<sup>7</sup> See *ACA International et al*, Petition for Partial Reconsideration, CG Docket No. 02-278 (filed Mar. 29, 2021); *Enterprise Communications Advocacy Coalition (ECAC)*, Petition for Reconsideration, CG Docket No. 02-278 (filed Mar. 17, 2021).

<sup>8</sup> *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; ACA International, the Edison Electric Institute, the Cargo Airline Association, and the American Association of Healthcare Administrative Management Petition for Partial Reconsideration; Enterprise Communications Advocacy Coalition Petition for Reconsideration*, CG Docket No. 02-278, Order on Reconsideration and Declaratory Ruling, FCC 22-100 (rel. Dec. 27, 2022). In the Declaratory Ruling, the Commission also confirmed that consumers who provide their wireless or residential telephone number to a company involved in the provision of their utility service, have given prior express consent to be contacted by that company at that number with informational messages that are closely related to the utility service so long as the consumer has not provided instructions to the contrary.

<sup>9</sup> See Federal Communications Commission, *Limits on Exempted Calls Under the Telephone Consumer Protection Act of 1991*, 88 FR 3668 (Jan. 20, 2023).