

United States Senate

WASHINGTON, DC 20510

24-103

February 6, 2024

The Honorable Jessica Rosenworcel
Chairwoman
Federal Communications Commission
45 L St NE
Washington, DC 20554

Dear Chairwoman Rosenworcel:

We write in support of the proposed Declaratory Ruling that the Federal Communications Commission (FCC) recognize that calls made with artificial intelligence-generated voices are “artificial” voices under the Telephone Consumer Protection Act (TCPA). Illegal scam calls have already eroded consumer trust in our telecommunications systems, and the use of artificial intelligence to impersonate trusted voices threatens to expose consumers to even greater harm.

Americans receive between 1.5 billion to 3 billion scam calls and likely illegal telemarketing calls each year. Even worse, these scams are working. In its 2022 report, the National Consumer Law Center estimated that around 68 million Americans lost over \$29 billion to scam callers.¹ We urge the FCC to do more to stop scam calls, and act to address the increasing dangers posed by AI-generated artificial voices.

In October 2023, the Senate Commerce, Science, and Transportation Committee’s Subcommittee on Communications, Media, and Broadband convened a hearing on “Protecting Americans from Robocalls.” In testimony from the USTelecom Association, Mr. Josh Bercu stated, “robocalls are making calls with a pre-recorded or artificial voice... the TCPA, I do believe applies.”² The FCC followed this hearing with a Notice of Inquiry in November to solicit input on how the FCC can combat illegal robocalls utilizing artificial intelligence. USTelecom’s comments to the Commission reflect their earlier testimony, stating, “the Commission... should take this opportunity to issue clear and explicit guidance to the industry confirming that the plain language of the Telephone Consumer Protection Act (“TCPA”) applies to any AI-generated voice call.”³ We commend you for moving forward with this proposed Declaratory Ruling to clarify that existing statute already prohibits robocalls using AI-generated voices to wireless customers.⁴

¹ “Scam Robocalls: Telecom Providers Profit.” National Consumer Law Center, Jun. 2022, <https://www.nclc.org/wp-content/uploads/2023/02/Robocall-Rpt-23.pdf>

² Bercu, Josh. In Testimony before the Senate Committee on Commerce, Science, and Transportation; Subcommittee on Communications, Media, and Broadband. “Protecting Americans from Robocalls.” October 24, 2023, <https://www.commerce.senate.gov/2023/10/protecting-americans-from-robocalls>

³ USTelecom – The Broadband Association, “Comments Of USTelecom – The Broadband Association: in the Matter of Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and Robotexts.” December 18, 2023, CG Docket No. 23-362.

⁴ The Honorable Jessica Rosenworcel, “FCC Chairwoman: Make AI Voice-Generated Robocalls Illegal.” Federal Communications Commission, January 31, 2024, <https://www.fcc.gov/document/fcc-chairwoman-make-ai-voice-generated-robocalls-illegal>

This ruling is particularly important given the increasing ease of access to generative-AI tools. Such tools can be used to clone a person’s voice with high levels of accuracy, and there are alarming cases of this technology being used to harm vulnerable families across the country. Criminal actors have used AI tools to impersonate children claiming to be kidnapped to extract a hefty ransom from their parents.⁵ For example, Scottsdale, Arizona mom Jennifer DeStefano testified in a hearing in June 2023 before the Senate Committee on the Judiciary’s Subcommittee on Human Rights and the Law about her frightening experience when she received a call that appeared to be from her 15-year-old daughter, crying and calling out for her. A man interrupted her daughter on the phone demanding Jennifer pay \$50,000 or risk her daughter being harmed.⁶ Gary Schildhorn testified at a Senate Aging Committee hearing in November 2023 about a call that appeared to be from his son Brett pleading for help from jail. Mr. Schildhorn was so upset by the authentic-seeming call that he almost wired the requested \$9,000 for a bail bond to Brett’s “public defender.”⁷ Ahead of the presidential primary in New Hampshire on January 23, 2024, voters received robocalls impersonating President Biden urging them not to vote—an unlawful attempt to disrupt the primary election and suppress voters.⁸

This declaratory ruling is aligned with Congressional intent for the Telephone Consumer Protection Act. As you know, the TCPA is the foundation of the Commission’s legal authority to limit junk calls, robocalls, and fraud on our telecommunications networks. The TCPA places restrictions on unsolicited advertisements, autodialers, and prerecorded or artificial voice messages. There are additional restrictions on calls and text messages to cell phones or other protected destinations, such as emergency lines, hospital rooms, or care facilities. The law and FCC rules require telemarketers to obtain prior express written consent from consumers before robocalling them. Under the TCPA, consumers should be empowered to provide consent on whether to receive AI generated calls.

We encourage the Commission to move ahead with the Declaratory Ruling to ensure that AI-generated voice calls are held to those same standards. We further encourage the Commission to exercise its lawful enforcement authority to stop the use of generative AI for fraudulent misrepresentation, particularly in critical sectors like public safety, election integrity, and consumer protection.

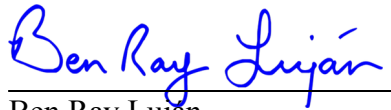
⁵ Faith Karimi, “‘Mom, these bad men have me’: She believes scammers cloned her daughter’s voice in a fake kidnapping”. CNN, April 29, 2023, <https://www.cnn.com/2023/04/29/us/ai-scam-calls-kidnapping-cec/index.html>.

⁶ DeStefano, Jennifer. In Testimony before the Senate Committee on the Judiciary. “Artificial Intelligence and Human Rights.” June 13th, 2023, <https://www.judiciary.senate.gov/imo/media/doc/2023-06-13%20PM%20-%20Testimony%20-%20DeStefano.pdf>.

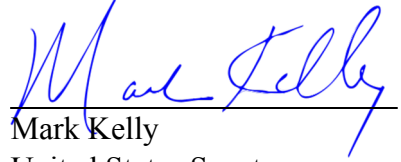
⁷ Schildhorn, Gary. In Testimony before the Senate Aging Committee. “Modern Scams: How Scammers Are Using Artificial Intelligence & How We Can Fight Back.” November 16, 2023, https://www.aging.senate.gov/imo/media/doc/1325ce4b-a18b-5f4f-e3f9-5ae835770f70/Testimony_Schildhorn%2011.16.23.pdf

⁸ Seitz-Wald, Alex and Mike Memoli, “Fake Joe Biden robocall tells New Hampshire Democrats not to vote Tuesday”. NBC News, January 22, 2024, <https://www.nbcnews.com/politics/2024-election/fake-joe-biden-robocall-tells-new-hampshire-democrats-not-vote-tuesday-rcna134984>

Sincerely,



Ben Ray Lujan
United States Senator



Mark Kelly
United States Senator

CC:

The Honorable Brendan Carr, Commissioner
The Honorable Geoffrey Starks, Commissioner
The Honorable Nathan Simington, Commissioner
The Honorable Anna Gomez, Commissioner