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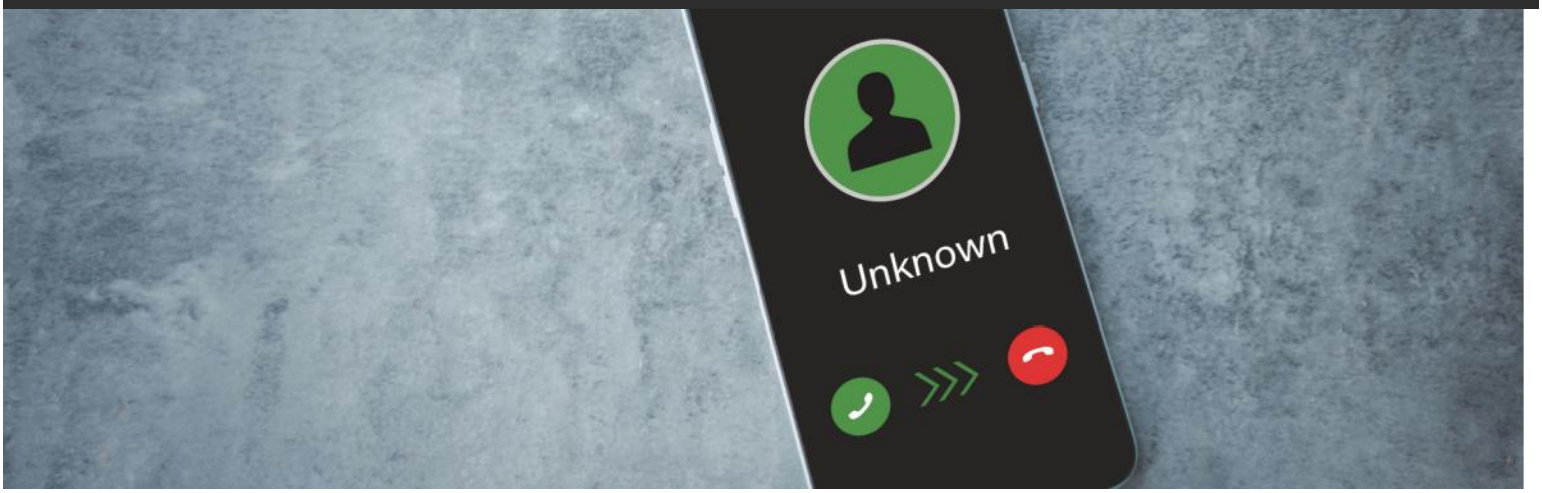

September 2026

FCC Moves to Rewrite TCPA Consent and Opt-Out Framework

On Sept. 9, 2026, the Federal Communications Commission released a draft Report and Order and Further Notice of Proposed Rulemaking that would, if adopted, substantially revise its consent and opt-out requirements for calls and texts, which the draft references collectively as "robocalls," under the Telephone Consumer Protection Act (TCPA).

The Report and Order

If adopted in its present form, the Report and Order would make several key changes to the TCPA's consent and opt-out requirements for robocalls.

Narrowing the Revoke-All Requirement

The Report and Order would narrow the scope of the FCC's delayed "revoke-all" requirement for informational robocalls. The FCC adopted the revoke-all requirement in 2024 but later delayed its effective date. It is now set to take effect Jan. 31, 2027, unless the Report and Order takes effect earlier.

In its present form, the revoke-all requirement instructs callers to permit consumer opt-outs by "any reasonable method" and directs callers to treat a consumer's opt-out as revoking consent for all future robocalls previously authorized.

The Report and Order would narrow the revoke-all requirement, in response to concerns previously

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raised by commentators, including the American Bankers Association and consumer advocates.

The draft rule would alter the existing framework. Rather than requiring callers to interpret consumers' opt-outs as applying to all future robocalls for which consent was given, callers would be permitted to interpret the opt-out as "applying only to the specific category of informational robocalls to which the revocation was directed."

For example, if a consumer submitted an opt-out in response to a payment reminder, the caller may be able to continue sending the consumer other categories of robocalls, like fraud alerts or account security notifications.

The Report and Order specifically cites concerns that the revoke-all requirement, in its present form, might inadvertently prevent consumers from receiving robocalls they still want and need, like fraud alerts.

Permitting an Exclusive Opt-Out Method

If adopted in its present form, the Report and Order would allow callers to designate an exclusive opt-out method.

In 2015, the FCC clarified that a consumer may submit an opt-out via "any reasonable manner that clearly expresses his or her desire not to receive further calls, and that the consumer is not limited to using only a revocation method that the caller has established as one that it will accept."

In 2024, the FCC confirmed that certain opt-out methods qualify as "reasonable." Such methods include automated, interactive voice or key press-activated opt-out methods; replying "stop" in response to a text; or a website or telephone number provided by the caller to process opt-out requests.

The Report and Order responds to cross-industry stakeholder concerns about the operational challenges and costs of allowing consumers to revoke consent by any reasonable means.

Under the draft rule, callers would be able to designate one or more of the three methods identified in the FCC's 2024 rule as exclusive. A caller would be required to disclose any designated method clearly and conspicuously in the call or text; otherwise, it would be required to honor revocation requests made by any reasonable means. Existing opt-out methods for exempt, advertising, and telemarketing calls would remain unchanged.

Permitting Financial Institutions to Rely on Specified Reliable Sources

If adopted in its present form, the Report and Order would allow financial institutions to send certain exempted robocalls (*e.g.*, fraud alerts) to wireless telephone numbers obtained from a "reliable source," rather than only to a number provided directly to the financial institution by the consumer.

In 2015, the FCC granted an exemption from the TCPA's consent requirements to financial institutions making certain informational robocalls to wireless telephone numbers. The exemption is limited to robocalls made for four identified purposes: (1) fraud or identity-theft alerts; (2) data-breach alerts; (3) data-breach remediation option alerts; and (4) notices of actions needed to receive pending money transfers. However, in granting the exemption, the FCC imposed specific conditions, including that a financial institution may direct robocalls only to "those wireless numbers provided by the customer of the financial institution."

Some financial institutions have argued that the FCC's condition requiring consumers to provide their

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number is too restrictive and has frustrated their efforts to communicate important, time-sensitive information to their customers. The Report and Order responds to these concerns.

Under the draft rule, financial institutions would be permitted to direct robocalls to wireless telephone numbers obtained from specified reliable sources: (1) provided by a spouse or family member who is authorized on the relevant account; (2) obtained when a customer calls the financial institution; or (3) included in records obtained from another financial institution.

Improving the Organization and Readability of the Rules

If adopted, the Report and Order would direct the FCC's Consumer and Governmental Affairs Bureau, in consultation with its Enforcement Bureau, to review Section 64.1200 of the TCPA. It would also require that the bureaus seek comment on organizational and plain-language revisions, excluding substantive changes.

The Further Notice of Proposed Rulemaking (FNPRM)

If issued in its present form, the FNPRM would seek comments on several issues specific to the TCPA's consent and opt-out requirements, including whether the FCC should:

- shorten the current 10-business-day maximum for honoring revocation requests;
- require senders of texts subject to Section 64.1200(a)(10) to permit consumers to revoke consent by reply text;
- require callers to provide a revoke-all opt-out method; or
- provide additional guidance regarding how its consent and opt-out requirements apply when entities operate through separate affiliates, lines of business, or divisions.

Takeaways

The FCC is scheduled to consider the draft Report and Order and FNPRM at its Sept. 30, 2026, Open Commission Meeting.

If FCC adopts the Report and Order, the revised rules would take effect 30 days after publication in the Federal Register. If the FNPRM is adopted, comments would be due 30 days after its publication in the Federal Register, and reply comments would be due 60 days after publication.

Interested parties may make permit-but-disclose *ex parte* presentations in CG Docket No. 02-278 until the Sunshine period begins. However, such communications are generally barred once the Sunshine period starts, subject to FCC exceptions.

If adopted, the revised rules would govern FCC enforcement and provide an important compliance framework. They may not, however, conclusively determine liability in private TCPA litigation. Following *Loper Bright* and *McLaughlin Chiropractic*, courts may independently assess whether the Commission's treatment of consent revocation is consistent with the TCPA.

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