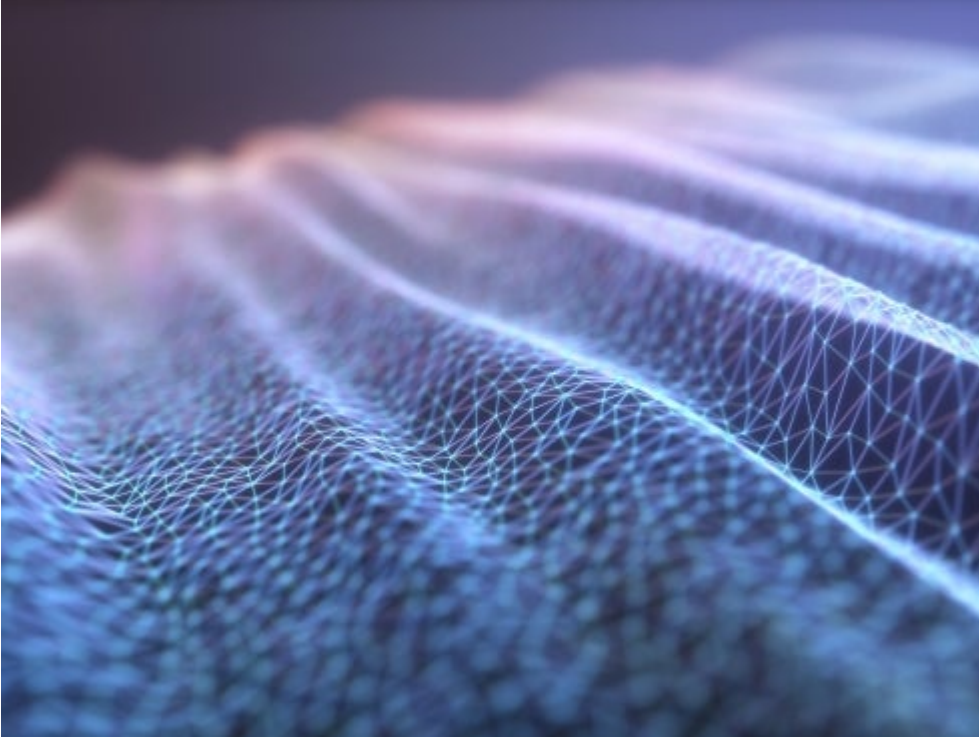


## [Updates](#)

August 15, 2024

### FCC Proposes New Rules for AI-Generated Content in Calls and Texts



The Federal Communications Commission (FCC) has once again set its sights on artificial intelligence (AI), proposing consumer protections in the use of AI-generated content in robocalls and robotexts.

Illegal robocalls and robotexts are already the biggest source of consumer complaints reported to the FCC, and the FCC anticipates that rapidly evolving AI technologies will be used to mislead, misinform, scam, and defraud consumers, exacerbating the unwanted call problem. The FCC, therefore, adopted a [Notice of Proposed Rulemaking](#) (NPRM) that defines AI-generated calls and requires callers to inform consumers that they are consenting to or receiving an AI-generated call.

This NPRM expands the FCC's efforts to address AI's impact on consumers' rights under the Telephone Consumer Protection Act (TCPA). Previously, the FCC issued a [Notice of Inquiry](#) seeking comment on the use of AI in robocalls and texts before [declaring that AI-generated voice calls constitute robocalls requiring prior consent](#). Commenters in these prior proceedings noted that AI offers benefits to consumers, such as improving telecommunications quality and accessibility. The NPRM, therefore, seeks further input on exemptions that promote accessibility and the use of AI to combat illegal robocalls and robotexts.

#### Proposed Rules

- **Defining AI-generated calls.** The FCC seeks comment on how it should define "AI-generated calls" for the purposes of its rules. The FCC proposes the following definition:

"a call that uses any technology or tool to artificially generate a voice or text using computational technology or other machine learning, including predictive algorithms, and large language models, to process natural language and produce voice or text content to communicate with a called party over an outbound telephone call."

This definition is intended to be broad enough to cover both existing and evolving AI technologies. It is also limited to outbound calls, which places AI technologies used to answer inbound calls—such as those used for customer service—outside the scope of the FCC’s regulations.

- **Disclosure requirement.** Callers using AI-generated content would have to disclose at the outset that AI technology is being used. Additionally, when callers seeking to use AI-generated calls obtain consumer consent to receive artificial or prerecorded voice calls or autodialed calls, they would have to conspicuously disclose that such consent includes the consent to receive AI-generated calls. The FCC seeks input on whether specific language or visual or auditory indicators would ensure consumers see and understand such disclosures.
- **Exemptions.** The proposed rules exempt artificial or prerecorded voice calls made by an individual with a speech or hearing disability using AI technologies (*e.g.*, text-to-speech or speech generators). To meet the exemption, calls to residential lines could not contain unsolicited advertisements and could not be made for commercial purposes. For calls to wireless telephone numbers, the call could not contain telemarketing or advertisements. The FCC seeks comment on whether these exemptions are properly scoped to ensure that individuals with disabilities can access telephone services and if there are any alternatives.
- **Technology development.** The FCC also seeks comment on the availability of existing and emerging technologies that can be used to combat unwanted calls, such as real-time call detection, call alerting, and call blocking. Although the FCC is interested in fostering the development and deployment of these technologies to protect consumers, it acknowledges that such technologies rely on analyzing the content of a call (which is likely to include personally identifiable information) to identify fraudulent or unlawful calls. The FCC, therefore, seeks comment on both how such technologies may be deployed and whether it should adopt any privacy requirements in this area.
- **Existing rules.** The proposed rules build on the existing disclosure obligations under the TCPA. For example, the TCPA already requires certain disclosures at the beginning of artificial or prerecorded voice calls (*e.g.*, the identity of the caller and the telephone number of the caller during or after the message). Callers using AI would have to comply with the existing requirements in addition to the new proposed rules if they are ultimately adopted by the FCC.

## Takeaways and Next Steps

This NPRM is the latest step by the FCC to (1) mitigate potential risks it believes may arise from emerging AI technologies and (2) determine how to leverage existing technology to combat abusers of AI technologies and protect consumers from unwanted calls and potential fraud. Public comments are due 30 days after the NPRM is published in the *Federal Register*, which is likely to occur within the next 30 days, and reply comments are due 45 days after publication.

## Authors

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