July 19, 2024

VIA ELECTRONIC FILING

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

RE: **In the Matter of Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and Robotexts, Notice of Inquiry (CG Docket No. 23-362)**

Dear Ms. Dortch:

The U.S. Chamber of Commerce ("Chamber") respectfully submits these *ex parte* comments to the Federal Communications Commission ("Commission" or "FCC") in response to the above-titled Notice of Inquiry ("Notice").[1] The Chamber appreciates the Commission's issuance of a Notice to understand the implications of emerging technologies, such as artificial intelligence ("AI") on robocalls and robotexts and the Telephone Consumer Protection Act ("TCPA").

The Chamber believes it is critical for the responsible and ethical use of AI to unlock innovation and improve the lives of Americans. We are actively engaging with more than a dozen federal agencies' efforts on AI as well as their international, state, and local counterparts. Last year, the Chamber's Artificial Intelligence Commission on Competitiveness, Inclusion, and Innovation ("Chamber AI Commission") released a comprehensive report on AI, which among other policies called for a risk-based regulatory framework.[2]

At this point, new regulations or legislation to address AI-enabled robocalls or robotexts would be premature. Instead, the Commission should leverage existing law, collaborate with industry and other governmental entities as well as other stakeholders to further its understanding on AI, and utilize its current enforcement tools to combat bad actors. For this reason, we appreciate the Commission's February *Declaratory Order* clarifying that AI-generated voices amount to an artificial or prerecorded voice under the TCPA.

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[1] *Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and Robotexts*, Notice of Inquiry, CG Docket No. 23-362, FCC 23-101 ¶¶ 19-22 (rel. Nov. 16, 2023)

[2] U.S. Chamber of Commerce Commission on Artificial Intelligence Competitiveness, Inclusion, and Innovation, Report and Recommendations (Mar. 9, 2023) ("Chamber AI Commission Report").

I. New Rules or Legislation on AI-Enabled Robocalls or Robotexts Would Be Premature

It is premature for the Commission to proceed with any regulations pertaining to AI-enabled robocalls or robotexts. The Commission should continue to monitor how AI technologies develop and then further evaluate both the benefits and risks they pose to consumers, and whether new rules would better protect consumers and enable innovation.

First, the risks posed by AI-enabled robocalls and robotexts are not fully understood. The record contains limited evidence justifying new rules or suggesting that there are existing legislative gaps.[3] Even recent state-level investigations triggered by high-profile uses of AI in the robocall context indicate that existing laws may be sufficient to address AI risks.[4]

While evidence of AI risks is minimal, the record demonstrates that the benefits of AI are evident, not just for robocall enforcement and mitigation, but also to improve communications tools for consumers. For example, AI tools can help detect and detail the tactics of fraudsters or be programmed to avoid calling customers who have not provided consent.[5] This technology thus can help reduce the number of unwanted robocalls and robotexts. Moreover, AI is used broadly to improve the consumer experience through better customer service and improved privacy.[6]

Second, it is unclear to what extent new regulations or legislation would be effective given the evolving nature of AI. If the Commission were to adopt updated TCPA regulations for AI, there would be significant risk that technological developments could circumvent new rules, which would undermine the benefits of adopting rules. The Commission should continue to gather information on the risks and benefits of AI-enabled robocalls and robotexts and take measured actions within existing frameworks to address any identified challenges before pursuing any new regulations.

II. The Commission Should Pursue Measured Actions to Address AI-Enabled Robocalls and Robotexts

A. Pursue a Targeted Regulatory Approach

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[3] *See* Comments of the Electronic Privacy Information Center, CG Docket No. 23-362, at 2 (filed Dec. 18, 2023) ("EPIC Comments") ("EPIC cites to a report on the impact of generative AI. However, the discussion on the impact of generative AI to scams only cites to a 2021 research that focuses phishing emails, not robocalls or robotexts").

[4] Tiffany Hsu, *New Hampshire Officials to Investigate A.I. Robocalls Mimicking Biden*, THE NEW YORK TIMES (Jan. 22, 2024), https://www.nytimes.com/2024/01/22/business/media/biden-robocall-ai-new-hampshire.html.

[5] Comments of USTelecom – the Broadband Association, CG Docket No. 23-362, at 2 (filed Dec. 18, 2023) ("USTelecom Comments"); Comments of CTIA – The Wireless Association, CG Docket No. 23-362, at 5-6 (filed Dec. 18, 2023) ("CTIA Comments").

[6] CTIA Comments at 5; Comments of the Microsoft Corporation, CG Docket No. 23-362, at 2 (filed Dec. 18, 2023) ("Microsoft Comments").

Despite urging caution with regards to AI-specific regulations, the Chamber does believe that the Commission can play an active role in addressing AI-enabled robocalls and robotexts.

The Chamber applauds the Commission's recent *Declaratory Order* addressing AI-generated voices as a targeted approach to address AI risks in robocalls. We agree with commenters who note that AI technologies already amount to an "artificial or prerecorded voice."[7] This aligns with the Chamber's preference and recommendation in our AI Commission Report for agencies to leverage existing laws in addressing AI risk.[8] At this point, the FCC does not need to take additional regulatory action to address AI-enabled robocalls and robotexts.

However, if the FCC were to pursue other regulatory actions, we urge the Commission to consider two substantive considerations concerning definitions and privacy. The first key question is how the Commission ultimately defines AI, which in other contexts has presented challenges given the lack of stakeholder consensus. If the Commission seeks to adopt a definition, the Commission should solicit feedback from stakeholders about any proposed definition and carefully consider the implications on the scope of a definition. The second issue is that the Commission should make clear that AI robocall and robotext solutions that use the content of the communications can, with the proper safeguards, be implemented consistent with privacy guidelines.[9]

B. Ensure Coordination Across Federal Agencies

As the Commission continues AI-related enforcement and builds its understanding of AI risks, benefits, and potential policy solutions, the Commission should also coordinate with other agencies to ensure its work is consistent with other activities across the federal government. Nearly every federal agency has been tasked with or encouraged to pursue actions related to AI.[10] Moreover, some agencies, such as the National Institute of Standards and Technology have significant and historical expertise in AI governance that can assist in the Commission's understanding of AI risks.[11]

C. Prioritize Enforcement Against Bad Actors

The Commission, in partnership with the U.S. Department of Justice ("DOJ"), should also prioritize enforcement of the current TCPA against bad actors. As previously noted, the TCPA is expansive and already prohibits calls with an artificial or prerecorded voices. However, the DOJ

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[7] USTelecom Comments at 4.

[8] Chamber AI Commission Report at 78.

[9] Microsoft Comments at 2-4.

[10] EXECUTIVE OFFICE OF THE PRESIDENT, EXEC. ORDER 14110, SAFE, SECURE, AND TRUSTWORTHY DEVELOPMENT AND USE OF ARTIFICIAL INTELLIGENCE (2023).

[11] NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY, U.S. DEPARTMENT OF COMMERCE, AI RISK MANAGEMENT FRAMEWORK (2023).

has not fully utilized its resources to prosecute bad actors.[12] In recent testimony to the Senate Commerce Committee, the Chamber noted policymakers already have several tools available to bolster enforcement.[13] This should be the first step before promulgating any new rules or legislation.

III.   Conclusion

We appreciate the Commission's Notice to address AI-enabled robocalls and robotexts. If you have any questions, please do not hesitate to reach out to Matt Furlow, Policy Director at mfurlow@uschamber.com.

Sincerely,

Jordan Crenshaw
Senior Vice President
Chamber Technology Engagement Center
U.S. Chamber of Commerce

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[12] *Protecting Americans from Robocalls: Hearing Before the Senate Commerce, Science, and Transportation Subcommittee on Communications, Media, and Broadband*, 118th Cong. 6 (2023) (statement of Megan Brown, Partner, Wiley Rein LLP, on behalf of the U.S. Chamber Institute for Legal Reform
[13] Id. at 6-7.