



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 02-278; FCC 24-24; FR ID 205127]

Strengthening the Ability of Consumers to Stop Robocalls

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopts new rules and codifies previously adopted protections that make it simpler for consumers to revoke consent to unwanted robocalls and robotexts while requiring that callers and texters honor these requests in a timely manner. Specifically, the Commission adopts rules to make clear that revocation of consent can be made in any reasonable manner, require that callers honor do-not-call and consent revocation requests within a reasonable time not to exceed ten business days of receipt, and limit text senders to a one-time text message confirming a consumer's request that no further text messages be sent under the Telephone Consumer Protection Act (TCPA).

DATES: Amendatory instruction 2 (adding 47 CFR 64.1200(a)(12)) is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and amendatory instruction 3 (revising 47 CFR 64.1200(a)(9)(i)(F) and (d)(3) and adding 47 CFR 64.1200(a)(10) and (11)) is delayed indefinitely. The Federal Communications Commission will publish a document in the *Federal Register* announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Richard D. Smith of the Consumer and Governmental Affairs Bureau at (717) 338-2797 or Richard.Smith@fcc.gov. For information regarding the Paperwork Reduction Act (PRA) information collection requirements contained in the PRA, contact Cathy Williams, Office of Managing Director, at (202) 418-2918, or Cathy.Williams@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Report and Order in CG Docket No. 02-278, FCC 24-24, adopted on February 15, 2024, and released on February 16, 2024. The full text of this document is available online at <https://docs.fcc.gov/public/attachments/FCC-24-24A1.pdf>. The effective date of amendments to § 64.1200(a)(9)(i)(F) and (d)(3), and the addition of § 64.1200(a)(10) and (11) which may contain new or modified information collection requirements under the PRA, will not be effective until six months following review by the Office of Management and Budget (OMB). The Commission will publish a document in the *Federal Register* announcing the effective date for such rules and issue a Public Notice once that date has been established.

To request this document in accessible formats for people with disabilities (e.g., Braille, large print, electronic files, audio format) or to request reasonable accommodations (e.g., accessible format documents, sign language interpreters, CART), send an email to fcc504@fcc.gov or call the FCC’s Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice).

CONGRESSIONAL REVIEW ACT

The Commission sent a copy of document FCC 24-24 to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

FINAL PAPERWORK REDUCTION ACT OF 1995

This document may contain new or modified information collection requirements subject to the PRA, Public Law 104-13. This document will be submitted to OMB for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the modified information collection requirements contained in this proceeding.

SYNOPSIS

1. In this final rule, the Commission clarifies and strengthens consumers’ rights to grant and revoke consent to receive robocalls and robotexts. Specifically, we adopt rules to: (1) make clearer that revocation of consent can be made in any reasonable manner; (2) require that callers honor do-not-call and consent revocation requests within a reasonable time not to exceed

10 business days of receipt; (3) limit text senders to a one-time text message confirming a consumer's request that no further text messages be sent, as well as confirming that any revocation of consent applies only to those robocalls and robotexts for which consent is required.

The proposed rule was published at 88 FR 42034 on June 29, 2023.

A. Revoking Consent in Any Reasonable Way

2. The Commission strengthens consumers' right to revoke consent by any reasonable means by codifying the right and ensuring callers and texters do not unduly restrict it. The Commission believes this will make clearer to callers and consumers that a consumer has a right to revoke consent under the Telephone Consumer Protection Act (TCPA). Specifically, the Commission codifies a new rule that will make clear that consumers may revoke prior express consent for autodialed or prerecorded or artificial voice calls and autodialed texts in any reasonable manner that clearly expresses a desire not to receive further calls or text messages, and that callers may not infringe on that right by designating an exclusive means to revoke consent that precludes the use of any other reasonable method.

3. The Commission agrees that further clarification as to the methods that are "reasonable" to revoke consent promotes the interests of both consumers and callers by ensuring that such requests are honored. Specifically, the Commission adopts a new rule that makes clear that any revocation request made using an automated, interactive voice or key press-activated opt-out mechanism on a robocall; via a response of "stop" or a similar, standard response message sent in reply to an incoming text message; or submitted at a website or telephone number provided by the caller to process opt-out requests constitute examples of a reasonable means to revoke consent. If a called party uses any such method designated by the caller to revoke consent, we consider that consent to be definitively revoked by a reasonable means, and future robocalls and robotexts from that caller must be stopped. When the caller offers such a means to revoke consent, that caller cannot allege that the use of such a mechanism by the called party is unreasonable. Any such request made by these specific means constitutes absolute proof

that the called party has used a reasonable means to revoke consent.

4. The Commission adopts a standardized list of the specific words that may be used to revoke consent via a reply text message to ensure that automated systems can process such requests. Specifically, the Commission finds that using the words “stop,” “quit,” “end,” “revoke,” “opt out,” “cancel,” or “unsubscribe” via reply text message constitutes a per se reasonable means to revoke consent. For purposes of revoking consent via a reply text message, the record confirms that both consumers and the industry commonly use these specific words to convey a reasonable and unambiguous intent to revoke consent. In addition, the record suggests that callers can use automated means to process these words in order to honor revocation of consent requests.

5. This does not preclude, however, the use of other words and phrases to revoke consent. If the reply text contains words or phrases other than those listed above, and should any dispute on this point arise, the text sender, who is responsible for processing the revocation request, will have an opportunity to explain why the consumer’s use of alternative words or phrases does not constitute a reasonable means to revoke consent. In these situations, the Commission or the court as the finder of fact will conduct a totality-of-circumstances analysis to determine whether the request to revoke consent has been conveyed in a reasonable manner. Consistent with the 2015 TCPA Order, published at 80 FR 61129 on October 9, 2015, when assessing whether any particular means of revocation used by a consumer is reasonable, the finder of fact will look to the totality of the facts and circumstances surrounding the specific situation, including, for example, whether the consumer had a reasonable expectation that they could effectively communicate their request for revocation to the caller in that circumstance, and whether the caller can implement the mechanisms to effectuate a requested revocation without incurring undue burdens. The Commission believes this approach balances the ability of consumers to easily stop unwanted text messages with the ability of text senders to reasonably process such requests.

6. Although the Commission confirms that there is no mandate that texting parties transmitting an autodialed text message must provide consumers with any specific means to revoke consent, such as through the use of reply text messages, we caution that this is a reasonable and widely recognized means for text recipients to revoke prior consent to text messages. There may be instances, however, where a text initiator chooses to use a texting protocol that does not allow reply texts. The Commission adopts a rule that, in those instances, requires the text initiator to: (1) provide a clear and conspicuous disclosure in each text to the consumer that two-way texting is not available due to technical limitations of the texting protocol; and (2) clearly and conspicuously provide reasonable alternative ways for a consumer to revoke consent, such as a telephone number, website link, or instructions to text a different number to revoke consent from further unwanted text messages. We recognize that character limits on text messages necessitate that such disclosures will need to be succinct to avoid unduly infringing on the sender's ability to communicate using a text message.

7. The Commission disagrees with commenters who argue that callers should be allowed to designate the specific means to permit consumers to revoke consent and that revocation requests must be directed only to those designated methods. The Commission therefore codifies a prohibition to that end. Allowing callers to limit revocation requests only to the specific means that they have designated potentially places a significant obstacle in the way of consumers who no longer wish to receive such calls by limiting the methods available to revoke consent, which is inconsistent with the consumer privacy protections afforded under the TCPA. In addition, the clarifications set forth herein ensure that consumers have the ability to easily exercise their right to revoke consent while providing callers with a reasonable opportunity to process such requests made in any reasonable way. For example, as discussed below, when the consumer chooses to use a method that has not been designated by the caller to process revocation requests, the caller will have an opportunity to prove why the method used is not reasonable.

8. The Commission also codifies that, when a consumer uses a method other than those discussed above to revoke consent, such as those made by voicemail or email to any telephone number or address at which the consumer can reasonably expect to reach the caller but which has not been designated by the caller as a method to revoke consent, doing so creates a rebuttable presumption that the consumer has revoked consent when the called party satisfies their obligation to produce evidence that such a request has been made, absent evidence to the contrary. We stress that, in the event of a dispute, the consumer must identify to the finder of fact the specific method and/or message used to convey their revocation of consent in order to avail themselves of this rebuttable presumption. As discussed above, in these instances when a consumer has demonstrated that they have made a revocation request, and the caller disputes that the revocation request has been made using a reasonable method, a totality of circumstances analysis will determine whether the caller can demonstrate that a request to revoke consent has not been conveyed in a reasonable manner. The Commission disagrees with commenters who argue this approach is inconsistent with consumers' right to revoke by any reasonable means. The Commission's approach is a means to ascertain whether a consumer has used a reasonable method to revoke consent when the consumer has used a method of their own choosing rather than one established by the calling or texting entity.

9. Lastly, the Commission notes that § 64.1200(c)(2) requires that callers not make "telephone solicitations" to telephone numbers registered on the National Do-Not-Call Registry unless the caller has obtained the "prior express invitation or permission" of the called party, in writing. The Commission takes this opportunity to clarify and amend its rules to make clear that consumers who have given their "prior express invitation or permission" to individual sellers to call their telephone numbers on the National Do-Not-Call Registry have the right to revoke consent by any reasonable means. The Commission's precedent confirming the right of consumers to revoke consent to robocalls applies equally to this situation.

B. Timeframe for Honoring a Do-Not-Call or Revocation Request

10. The Commission requires that callers honor company-specific do-not-call and revocation-of-consent requests for robocalls and robotexts that are subject to the TCPA within a specific timeframe. Specifically, the Commission amends its rules to require that callers honor company-specific do-not-call and revocation-of-consent requests within a reasonable time from the date that the request is made, not to exceed 10 business days after receipt of the request.

11. The Commission will monitor compliance with this obligation to ensure that such requests are honored in a timely manner and reserves the right to adjust this timeframe as necessary in the future as technologies continue to advance, and thereby further reduce the time necessary to process such requests after notice and comment.

12. The Commission revises its proposed 24-hour timeframe in response to commenter concerns that the proposed 24-hour timeframe would not be feasible in many instances. The Commission is persuaded by the record, including comments from consumer organizations, that a longer timeframe is justified to ensure that entities, including smaller entities, have a reasonable opportunity to process do-not-call and revocation requests. The Commission believes this outcome adequately balances the burdens on callers with the privacy protections afforded to consumers, with a “no longer than 10 business days” backstop to ensure that consumers have certainty about when they can expect unwanted communications to stop.

13. The Commission also amends its rules for exempted package delivery calls to substantially reduce the 30-day timeframe to process such requests allowed in its current rules. Specifically, the Commission amends the exemption that allows package delivery notification robocalls and robotexts without consent to require that opt-out requests be honored within a reasonable time not to exceed six business days. The record suggests that this timeframe is sufficient to ensure processing of revocation requests in this specific context. No commenter argues for any other timeframe in this context or objects to this timeframe.

C. Revocation Confirmation Text Message

1. Confirmation of Revocation Request

14. The Commission codifies the *Soundbite Declaratory Ruling* which clarified that a one-time text message confirming a consumer's request that no further text messages be sent does not violate the TCPA or the Commission's rules as long as the confirmation text merely confirms the called party's opt-out request and does not include any marketing or promotional information, and the text is the only additional message sent to the called party after receipt of the opt-out request. Consistent with the *Soundbite Declaratory Ruling*, if the confirmation text is sent within five minutes of receipt, it will be presumed to fall within the consumer's prior express consent. If it takes longer, however, the sender will have to make a showing that such delay was reasonable, and the longer this delay, the more difficult it will be to demonstrate that such a message falls within the original prior consent. In the *Soundbite Declaratory Ruling*, the Commission determined that "confirmation messages ultimately benefit and protect consumers by helping to ensure, via such confirmation, that the consumer who ostensibly opted out in fact no longer wishes to receive text messages from entities from whom the consumer previously expressed an affirmative desire to receive such messages." The Commission agrees with numerous commenters that codifying this ruling will better ensure that both text senders and recipients are aware of this ruling, including the limitations on such one-time confirmation text messages.

15. The Commission also adopts its proposal to codify that senders can include a request for clarification in this one-time confirmation text, provided the sender ceases all further robocalls and robotexts absent an affirmative response from the consumer. The Commission limits this opportunity to request clarification to instances where the text recipient has consented to several categories of text messages from the text sender. Thus, this rule will give consumers an opportunity to specify which types of text messages they wish to no longer get, when the texter sends different types of messages. That request for clarification can seek confirmation that the consumer wishes to opt out of all categories of messages from the sender, provided the sender ceases all further robocalls and robotexts absent an affirmative response from the

consumer that they do, in fact, wish to receive further communications from the sender. The lack of any response to the confirmation text must be treated by the sender as a revocation of consent for all robocalls and robotexts from the sender.

16. The Commission adopts this proposal in response to Capital One's petition seeking confirmation that the text sender may request clarification in its one-time confirmation message of the scope of the recipient's revocation request when that recipient has consented to receiving multiple categories of informational messages from the sender. Banks and financial institutions support this request, indicating that consumers often consent to receive multiple categories of informational messages, such as fraud alerts, payment notices, and declined card transactions. In these situations, opt-out requests can be ambiguous as to whether the request applies to all or just certain types of those messages. Consumer groups have also expressed support for Capital One's request, provided that a lack of any response to the confirmation text message must be interpreted by the sender to mean that the consumer's revocation request was intended to encompass all categories of robocalls and robotexts and the sender must therefore cease all further robocalls and robotexts to that consumer absent further clarification from the consumer.

17. Consistent with the *Soundbite Declaratory Ruling* and Capital One's request, the Commission codifies that any such clarification message must not contain any marketing or advertising content or seek to persuade the recipient to reconsider their opt-out decision. Rather, this clarification is strictly limited to informing the recipient of the broad scope of the opt-out request absent some further confirmation from the consumer that they wish to continue receiving certain categories of text messages from the sender.

18. The Commission emphasizes that this confirmation text message is limited to a final one-time text message. In the absence of an affirmative response from the consumer that they wish to continue to receive certain categories of informational calls or text messages from the sender, no further robocalls or robotexts for which consent is required can be made to this

consumer. In addition, a “stop” or similar text sent in response to the one-time request for confirmation does not then allow the text sender to another request for further clarification. As noted above, both industry and consumer groups support this proposal.

2. Scope of Consent Revocation

19. The Commission clarifies that any revocation of consent request applies only to those robocalls and robotexts for which consent is required under the TCPA. Once that consent is revoked, the caller may no longer make robocalls or send robotexts to a called party absent an exemption to the consent obligation. However, the Commission has granted exemptions from the consent requirement for certain categories of robocalls and robotexts. In these situations, consent is not required for the caller to make or send certain exempted informational robocalls or robotexts. Instead, the caller is required to comply with specific conditions including number and frequency limits of such communications; the caller must also stop such communications only if the consumer makes a request to opt out of the exempted communications.

20. As a result, the rule that the Commission codifies here that requires callers to honor a revocation of consent request made by any reasonable means applies only to robocalls and robotexts that the called party has consented to receive and is separate from the ability of callers to make such informational communications pursuant to an exemption, which do not require consent. Therefore, in effect, when a consumer revokes consent with regard to telemarketing robocalls or robotexts, the caller can continue to reach the consumer pursuant to an exempted informational call, which does not require consent, unless and until the consumer separately expresses an intent to opt out of these exempted calls. Where the consumer has revoked consent in response to a telemarketing call or message, it remains unclear whether the consumer has expressed an intent to opt out of otherwise exempted informational calls absent some indication to the contrary. The Commission agrees with financial institutions’ concerns that consumers may inadvertently opt out of exempted informational calls or messages such as fraud alerts when attempting to stop unwanted telemarketing calls from their bank. If the

revocation request is made directly in response to an exempted informational call or text, however, this constitutes an opt-out request from the consumer and all further non-emergency robocalls and robotexts must stop. In these circumstances, there is no ambiguity that the consumer's intent is to no longer receive such exempted informational calls from the caller: the opt-out request is a communication from the consumer regarding the exempted informational calls and acts as a revocation of consent for all calls from the caller.

21. The Commission disagrees with commenters that argue the Commission should carve out specific subcategories of informational messages such as fraud alerts, identity theft, and breach notifications and force consumers to revoke consent to these specific categories of informational messages even when the caller chooses not to comply with the conditions of an underlying exemption for such informational messages. The Commission believes this would be burdensome to consumers and unnecessary given the ability of caller to comply with the conditions of an exemption to make such communications in the absence of having consent and the ability to send a confirmation text informing consumers of the scope of their revocation request affording them an opportunity to provide consent for any type of calls or messages that they wish to continue receiving from the caller.

22. Lastly, the Commission takes this opportunity to confirm that, when consent is revoked in any reasonable manner, that revocation extends to both robocalls and robotexts regardless of the medium used to communicate the revocation of consent. For example, if the consumer revokes consent using a reply text message, then consent is deemed revoked not only to further robotexts but also robocalls from that caller. The TCPA requires that the caller obtain the prior express consent of the "called party." The Commission has long held that the restriction encompasses both voice calls and texts. Consent is granted from a consumer to a calling party to be contacted at a particular wireless phone number or residential line. Revocation of consent, therefore, is an instruction that the caller no longer contact the consumer at that number. As a result, consent is specific to the called party and not the method of

communication used to revoke consent. Thus, if a called party has revoked consent via any reasonable means, the caller no longer has consent to make further robocalls or robotexts to that called party absent instructions to the contrary from the consumer.

D. Legal Authority

23. The Commission's legal authority for the rules adopted herein derives from section 227 of the Communications Act of 1934, as amended (the Act). As discussed above, as the expert agency on the TCPA, the Commission has addressed issues relating to prior express consent by robocall consumers on numerous occasions.

FINAL REGULATORY FLEXIBILITY ANALYSIS

24. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, notice of proposed rulemaking, published at 88 FR 42034 on June 29, 2023, released in June 2023 (*TCPA Consent NPRM*). The Commission sought written public comment on the proposals in the *TCPA Consent NPRM*, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Report and Order

25. The Report and Order clarifies and strengthens the right of consumers to grant or revoke consent to receive robocalls and robotexts under TCPA. Under the TCPA, certain types of calls and texts may only be sent with the prior express consent of the called party. The ability of consumers to exercise this right to provide or revoke consent is essential to protecting the privacy rights of consumers by allowing them to decide which callers may communicate with them via robocalls and robotexts.

26. In addition, the Report and Order codifies prior Commission rulings and adopts new requirements to ensure that the requirements relating to providing or revoking consent under the TCPA are clear to both callers and consumers. Specifically, the Report and Order makes

clear that consumers may revoke prior express consent in any reasonable manner that clearly expresses a desire not to receive further calls or text messages, including using an automated, interactive voice or key press-activated opt-out mechanism on a call, using the words “stop,” “quit,” “end,” “revoke,” “opt out,” “cancel,” or “unsubscribe” sent in reply to an incoming text message, or pursuant to a website designated by the caller to process opt-out requests. These approaches constitute a reasonable means to revoke consent and that callers may not infringe on that right by designating an exclusive means to revoke consent that precludes the use of any other reasonable method.

27. The Report and Order also requires that callers honor do-not-call and revocation requests within a reasonable time not to exceed ten business days of receipt. Further, the Report and Order reiterates that consumers only need to revoke consent once to stop getting all calls and texts from a specific entity. It also codifies that a one-time text message confirming a consumer’s request that no further text messages be sent does not violate the TCPA or the Commission’s rules as long as the confirmation text merely confirms the called party’s opt-out request, does not include any marketing or promotional information, and the text is the only additional message sent to the called party after receipt of the opt-out request..

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

28. There were no comments filed that specifically addressed the rules and policies proposed in the IRFA. Several commenter did, however, make reference to the potential compliance burdens including the impact on small businesses. Commenters contend that compliance with an obligation to honor revocation of consent requests within 24-hours would be burdensome for small entities.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

29. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of

the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

30. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small-business concern” under the Small Business Act. A “small-business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

31. Small Businesses, Small Organizations, Small Governmental Jurisdictions. The Commission’s actions, over time, may affect small entities that are not easily categorized at present. The Commission, therefore describe at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA’s Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

32. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S.

reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

33. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” U.S. Census Bureau data from the 2017 Census of Governments indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,931 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 12,040 special purpose governments—-independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of “small governmental jurisdictions.”

34. Telemarketing Bureaus and Other Contact Centers. This industry comprises establishments primarily engaged in operating call centers that initiate or receive communications for others-via telephone, facsimile, email, or other communication modes-for purposes such as (1) promoting clients, products, or services, (2) taking orders for clients, (3) soliciting contributions for a client, and (4) providing information or assistance regarding a client's products or services. These establishments do not own the product or provide the services they are representing on behalf of clients. The SBA small business size standard for this industry classifies firms having \$16.5 million or less in annual receipts as small. According to U.S. Census Bureau data for 2017, there were 2,250 firms in this industry that operated for the entire year. Of this number 1,435 firms had revenue of less than \$10 million. Based on this information, the majority of firms in this industry can be considered small under the SBA small business size standard.

35. Wireless Telecommunications Carriers (except Satellite). This industry comprises establishments engaged in operating and maintaining switching and transmission

facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless Internet access, and wireless video services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 594 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

36. The rules adopted in the Report and Order may result in modified reporting, recordkeeping, or other compliance requirements for small entities. In cases where consumers invoke their right to grant or revoke consent to small entity callers to receive robocalls and robotexts under the TCPA, these callers may need to implement new methods to record and track such revocation requests to honor them within the specified timeframes. This includes honoring any revocation or do-not-call requests made by any reasonable means including by using an automated, interactive voice or key press-activated opt-out mechanism on a call, using the words “stop,” “quit,” “end,” “revoke,” “opt out,” “cancel,” or “unsubscribe” sent in reply to an incoming text message, or pursuant to a website designated by the caller when those options are provided by the calling party. In situations where a text initiator chooses to use a texting protocol that does not allow reply texts, the text initiator must: (1) provide a clear and conspicuous disclosure in each text to the consumer that two-way texting is not available due to technical limitations of the texting protocol; and (2) clearly and conspicuously provide

reasonable alternative ways for a consumer to revoke consent, such as a telephone number, website link, or instructions to text a different number to revoke consent from further unwanted text messages.

37. In addition, callers must process such requests within a reasonable time not to exceed ten business days of receipt, and within six business days for package delivery services. This may necessitate small and other entities to update their current systems and processes for handling such requests.

38. There is not sufficient information on the record to quantify the costs of compliance for small entities, or to determine whether it will be necessary for small entities to hire professionals to comply with the adopted rules. The Commission notes that many of the requirements contained in the Report and Order have been adopted in rulings dating back many years or even decades. As a result, the Commission anticipates that many callers, including smaller entities, have already made efforts to comply with these obligations and may have limited new burdens.

F. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

39. The RFA requires an agency to provide, “a description of the steps the agency has taken to minimize the significant economic impact on small entities...including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rules and why each one of the other significant alternatives to the rule considered by the agency which affects the impact on small entities was rejected.”

40. In the Report and Order, the Commission took steps to minimize significant economic impact on small entities and considered alternatives to the adoption of new rules and processes that may impact small entities. In response to commenter requests, the Commission provided greater specificity as to the methods that are deemed reasonable to revoke consent. Taking this step provides callers, including many small entities, with additional guidance

regarding the means to comply with our rules. Alternatively, the Commission declined to allow callers to designate the use of specific technologies to permit consumers to revoke consent, such as the use of reply text messages, and grant callers with the flexibility to process revocation requests by any reasonable means. The Commission also modified our proposal requiring that the revocation of consent requests and do-not-call requests must be processed within 24-hours. Rather, in response to concerns from numerous commenters that the 24-hour limitation is not feasible, our amended rules require such requests be honored within a reasonable time not to exceed ten business days. This provides callers, including many smaller entities, greater flexibility to process revocation requests that are made via any reasonable means. Without objection, the Commission also amends the exemption that allows package delivery notification robocalls and robotexts, with revocation requests now reduced from 30 business days to requests being honored within a reasonable time not to exceed six business days. In addition to providing certainty to consumers that their requests are being addressed, there were no objections to this timeframe and the record reflects that this provides package delivery companies, some of which are small entities, a reasonable opportunity to process such requests. Finally, the Commission codifies into its rules the ability of callers to send a final, one-time confirmation text in response to a request to opt-out of further messages. This will benefit both callers and consumers by

allowing confirmation of the consumer's intent to no longer receive calls or text messages from the caller.

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and Recordkeeping requirements,
Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,
Secretary,
Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64 – MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 255, 262, 276, 301, 303, 316, 345, 403(b)(2)(B), (c), 616, 620, 716, 1401-1473, unless otherwise noted; Div. P, sec. 503, Pub. L. 115-141, 132 Stat. 348, 1091; sec. 5, Pub. L. 117-223, 136 Stat 2280, 2285-88 (47 U.S.C. 345 note).

Subpart L – Restrictions on Telemarketing, Telephone Solicitation, and Facsimile

Advertising

2. Effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE**

FEDERAL REGISTER], § 64.1200 is amended by adding reserved paragraphs (a)(10) and (11) and paragraph (a)(12) to read as follows:

§ 64.1200 Delivery restrictions.

(a) * * *

(10) through (11) [Reserved]

(12) A one-time text message confirming a request to revoke consent from receiving any further calls or text messages does not violate paragraphs (a)(1) and (2) of this section as long as the confirmation text merely confirms the text recipient's revocation request and does not include any marketing or promotional information, and is the only additional message sent to the called party after receipt of the revocation request. If the confirmation text is sent within five minutes of receipt, it will be presumed to fall within the consumer's prior express consent. If it takes longer, however, the sender will have to make a showing that such delay was reasonable. To the extent that the text recipient has consented to several categories of text messages from the text sender, the confirmation message may request clarification as to

whether the revocation request was meant to encompass all such messages; the sender must cease all further texts for which consent is required absent further clarification that the recipient wishes to continue to receive certain text messages.

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3. Delayed indefinitely, § 64.1200 is amended by revising paragraph (a)(9)(i)(F), adding paragraphs (a)(10) and (11), and revising paragraph (d)(3) to read as follows:

§ 64.1200 Delivery restrictions.

(a) * * *

(9) * * *

(i) * * *

(F) The package delivery company must offer package recipients the ability to opt out of receiving future delivery notification calls and messages and must honor an opt-out request within a reasonable time from the date such request is made, not to exceed six business days; and,

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(10) A called party may revoke prior express consent, including prior express written consent, to receive calls or text messages made pursuant to paragraphs (a)(1) through (3) and (c)(2) of this section by using any reasonable method to clearly express a desire not to receive further calls or text messages from the caller or sender. Any revocation request made using an automated, interactive voice or key press-activated opt-out mechanism on a call; using the words “stop,” “quit,” “end,” “revoke,” “opt out,” “cancel,” or “unsubscribe” sent in reply to an incoming text message; or pursuant to a website or telephone number designated by the caller to process opt-out requests constitutes a reasonable means per se to revoke consent. If a called party uses any such method to revoke consent, that consent is considered definitively revoked and the caller may not send additional robocalls and robotexts. If a reply to an incoming text message uses words other than “stop,” “quit,” “end,” “revoke,”

“opt out,” “cancel,” or “unsubscribe,” the caller must treat that reply text as a valid revocation request if a reasonable person would understand those words to have conveyed a request to revoke consent. Should the text initiator choose to use a texting protocol that does not allow reply texts, it must provide a clear and conspicuous disclosure on each text to the consumer that two-way texting is not available due to technical limitations of the texting protocol, and clearly and conspicuously provide on each text reasonable alternative ways to revoke consent. All requests to revoke prior express consent or prior express written consent made in any reasonable manner must be honored within a reasonable time not to exceed ten business days from receipt of such request. Callers or senders of text messages covered by paragraphs (a)(1) through (3) and (c)(2) of this section may not designate an exclusive means to request revocation of consent.

(11) The use of any other means to revoke consent not listed in paragraph (a)(10) of this section, such as a voicemail or email to any telephone number or email address intended to reach the caller, creates a rebuttable presumption that the consumer has revoked consent when the called party satisfies their obligation to produce evidence that such a request has been made, absent evidence to the contrary. In those circumstances, a totality of circumstances analysis will determine whether the caller can demonstrate that a request to revoke consent has not been conveyed in a reasonable manner.

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(d) * * *

(3) *Recording, disclosure of do-not-call requests.* If a person or entity making an artificial or prerecorded-voice telephone call pursuant to an exemption under paragraphs (a)(3)(ii) through (v) of this section or any call for telemarketing purposes (or on whose behalf such a call is made) receives a request from a residential telephone subscriber not to receive calls from that person or entity, the person or entity must record the request and place the subscriber's name, if provided, and telephone number on the do-not-call list at the time the

request is made. Persons or entities making such calls (or on whose behalf such calls are made) must honor a residential subscriber's do-not-call request within a reasonable time from the date such request is made. This period may not exceed ten (10) business days from the receipt of such request. If such requests are recorded or maintained by a party other than the person or entity on whose behalf the call is made, the person or entity on whose behalf the call is made will be liable for any failures to honor the do-not-call request. A person or entity making an artificial or prerecorded-voice telephone call pursuant to an exemption under paragraphs (a)(3)(ii) through (v) or any call for telemarketing purposes must obtain a consumer's prior express permission to share or forward the consumer's request not to be called to a party other than the person or entity on whose behalf a call is made or an affiliated entity.

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