

## FCC Issues Declaratory Ruling Prohibiting the Use of AI-Generated Voice in Robocalls

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On February 8, 2024, the Federal Communications Commission (“FCC” or “Commission”) released a [Declaratory Ruling](#) clarifying that the Telephone Consumer Protection Act of 1991 (“TCPA”) applies to robocalls that use a voice generated by artificial intelligence (“AI”). The Declaratory Ruling was effective on release (Thursday, February 8, 2024).

The TCPA forbids callers from initiating telephone calls to “any residential telephone line using an *artificial or prerecorded voice* to deliver a message” without consent unless an applicable exemption applies. 47 U.S.C. § 227(b)(1)(B) (emphasis added). The TCPA also prohibits a caller from initiating a non-emergency call using an automatic telephone dialing system (“ATDS”) or an artificial or prerecorded voice to mobile telephone numbers without consent or an applicable exemption. 47 C.F.R. § 64.1200(a)(1)–(2).

In its Declaratory Ruling, the Commission clarified that AI technologies that simulate human voice or that facilitate the playing of prerecorded voice messages fall under the definition of “artificial or prerecorded voice.” Because voice cloning and similar technologies can either simulate a real human’s voice or artificially generate a human voice, the Commission concluded that they are “artificial.” Declaratory Ruling ¶ 5. Relatedly, the Commission also ruled that a caller uses a “prerecorded voice” if the call is facilitated by AI technologies that use prerecorded voice messages, such as using AI to select which of several pre-recorded messages to play in response to a consumer’s speech. *Id.* In doing so, the Commission emphasized that the TCPA does not “allow for any carve out of technologies that purport to provide the equivalent of a live agent.” *Id.* ¶ 6. Callers must obtain prior express consent in both aforementioned scenarios, unless an applicable exemption applies.

The Declaratory Ruling also reminds callers that all artificial or prerecorded voice messages must include various disclosures (e.g., name, contact information) of the entity responsible for the call. *See* 47 C.F.R. § 64.1200(b)(1)–(2). If the artificial or prerecorded voice message includes an advertisement or telemarketing, callers must also offer the opt-out methods prescribed in the Commission’s regulations. *See id.* § 64.1200(b)(3).

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HWG LLP’s cross-disciplinary TCPA practice advises clients on federal and state legislative and regulatory proceedings, company compliance, and related litigation matters. Please contact Jennifer Bagg, Adrienne Fowler, or Daeyeong Kim for more information.

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