

FCC Approves Release of NPRM to Implement Government Debt TCPA Exemption

May 17, 2016

On May 4, 2016, the FCC issued a Notice of Proposed Rulemaking to exempt robocalls made to collect “a debt owed to or guaranteed by the United States” from the TCPA’s prior express consent requirement. The new rules will implement a provision of the Bipartisan Budget Act of 2015. In its Notice, the Commission seeks comment on a number of issues, including as follows:

- **What types of calls should be covered by the exemption?** The Budget Act created the TCPA exemption for calls made “solely to collect a debt” owed to the United States. The Commission seeks comment on the proper interpretation of that language. It also proposes to allow debt servicing calls under the exemption because such calls “may provide a valuable service by offering information about options and programs designed to keep at-risk debtors from defaulting or becoming delinquent on their loans.” Finally, the Commission seeks comment on the proper interpretation and scope of the phrase “owed to or guaranteed by the United States.”
- **Who can be called?** The Commission proposes that the exemption will cover “only calls to the person or persons obligated to pay the debt.” It would exclude calls to persons who the caller does not intend to reach, and would apply the “one-call window” rule for reassigned numbers. The Commission seeks comments on these proposals and asks commenters to provide alternative approaches they feel would be appropriate.
- **Who may place the calls?** The Commission proposes that the exemption would cover calls made by creditors and those calling on their behalf, including agents. It seeks comment on whether it should adopt this approach, or consider a narrower or broader interpretation under the Budget Act exemption.
- **How should the Commission limit the number and duration of the calls?** The Budget Act provides the Commission with discretion to restrict covered calls, including by limiting the frequency and duration of the calls. Thus, the Commission has proposed a three-call-per-month maximum for autodialed, prerecorded, or artificial voice calls to wireless numbers. The limit would apply regardless of whether a call went unanswered. The Commission posits whether a different limitation would be appropriate for live agent calls. Without setting forth specific proposals, the Commission also seeks comment on the appropriate duration for the calls, as well as other restrictions (i.e., limiting calls hours to 8:00 AM to 9:00 PM).
- **Should consumers be permitted to stop covered calls?** The Commission proposes “that consumers should have a right to stop [covered] calls at any point the consumer wishes.” It proposes that stop-calling requests would continue to apply even after the debt is transferred to other collectors. It further proposes to require callers to inform consumers of their right to make a stop-calling request.

Comments on the Commission's proposals are due on **June 6, 2016** and replies are due on **June 21, 2016**. Following the comment period, we expect the proceeding to move quickly because the Commission is statutorily mandated to adopt rules to implement the exemption no later than August 2, 2016.