OMB. This decrease is due in part to a decrease in the number of new technician certifications and the time allotted for maintenance of the technician certification records. In this ICR EPA estimates the number of new technician certifications to be 40,000 per year, a decrease from the 50,000 estimated in the previous ICR, based on information provided by the largest technician certification program. The maintenance of these records is estimated to require 0.067 clerical work hours per certification, a decrease from 0.08 hours in the previous ICR, recognizing the move towards electronic recordkeeping which may be more efficient. Another reason for the burden decrease is a decrease in the market for small containers of CFC–12 refrigerant. In this ICR, EPA estimates that the number of purchases for resale only by uncertified purchasers of small cans will be 50% less than in the previous ICR, or approximately 69 purchases, because EPA estimates that there has been at least a 50% reduction in the CFC–12 vehicle fleet since 2015.


Cynthia A. Newberg, Director, Stratospheric Protection Division.

[FR Doc. 2018–12163 Filed 6–5–18; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[CG Docket Nos. 18–152, 02–278; DA 18–493]

Consumer and Governmental Affairs Bureau Seeks Comment on Interpretation of the Telephone Consumer Protection Act in Light of the D.C. Circuit’s ACA International Decision

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission, via the Consumer and Governmental Affairs Bureau (Bureau), invites comment on several issues related to interpretation and implementation of the Telephone Consumer Protection Act (TCPA) following the recent decision of the U.S. Court of Appeals for the District of Columbia in ACA International v. FCC: What constitutes an “automatic telephone dialing system,” how to treat calls to reassigned wireless numbers, and how a called party may revoke prior express consent to receive robocalls under the TCPA. In addition, the Bureau seeks to refresh the record on two pending petitions for reconsideration of the Commission’s Broadnet Declaratory Ruling and on a pending petition for reconsideration of the 2016 Federal Debt Collection Rules that implemented amendments to the TCPA.

DATES: Comments are due on June 13, 2018. Reply comments are due on June 28, 2018.


Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th Street SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For further information, contact Kristi Thornton of the Consumer and Governmental Affairs Bureau at (202) 418–2467 or Kristi.Thornton@fcc.gov; Christina Clearwater at (202) 418–1893 or Christina.Clearwater@fcc.gov; or Karen Schroeder at (202) 418–0654 or Karen.Schroeder@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Public Notice, document DA 18–493, released on May 14, 2018. The full text of document DA 18–493 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. A copy of document DA 18–493 and any subsequently filed documents in this matter may also be found by searching ECFS at: http://apps.fcc.gov/ecfs/ (insert CG Docket Nos. 18–152 or 02–278 into the Proceeding block).

Interested parties may file comments on or before the dates indicated above in the DATES portion of this notice. All filings must reference CG Docket Nos. 18–152 and 02–278. Pursuant to § 1.1200 of the Commission’s rules, 47 CFR 1.1200, this matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must: (1) List all persons attending or otherwise participating in the meeting at which the ex parte presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with § 1.1206(b) of the Commission’s rules. In proceedings governed by § 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and

Synopsis

1. In the Public Notice, the Bureau seeks comment on several issues related to interpretation and implementation of the Telephone Consumer Protection Act (TCPA), following the recent decision of the U.S. Court of Appeals for the District of Columbia in ACA International v. FCC, 885 F.3d 687 (D.C. Cir. 2018).

First, the Bureau seeks comment on what constitutes an “automatic telephone dialing system.” The TCPA defines an automatic telephone dialing system as “equipment which has the capacity—(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and (B) to dial such numbers.” Regarding the term “automatic,” the Commission explained that the “basic function[ ]” of an automatic telephone dialing system is to “dial numbers without human intervention” and yet “declined to [clarify] that a dialer is not an [automatic telephone dialing system] unless it has the capacity to dial numbers without human intervention.” As the court put it, “[t]hose side-by-side propositions are difficult to square.” The court further noted the Commission said another basic function was to “dial thousands of numbers in a short period of time,” which left parties “in a significant fog of uncertainty” on how to apply that notation. How “automatic” must dialing be for equipment to qualify as an automatic telephone dialing system? Does the word “automatic” envision non-manual dialing of telephone numbers? Must such a system dial numbers without human intervention? Must it dial thousands of numbers in a short period of time? If so, what constitutes a short period of time for these purposes?

Second, the Bureau seeks comment on how to interpret “capacity” in light of the court’s guidance. For example, how much user effort should be required to enable the device to function as an automatic telephone dialing system? Does equipment have the capacity if it requires the simple flipping of a switch? If the addition of software can give it the requisite functionality? If it requires essentially a top-to-bottom reconstruction of the equipment? In answering that question, what kinds (and how broad a swath) of telephone equipment might then be deemed to qualify as an automatic telephone dialing system? Notably, in light of the court’s guidance that the Commission’s prior interpretation had an “eye-popping sweep,” the Bureau seeks comment on how to more narrowly interpret the word “capacity” to better comport with the congressional findings and the intended reach of the statute.

Third, the Bureau seeks further comment on the functions a device must be able to perform to qualify as an automatic telephone dialing system. Again, the TCPA defines an “automatic telephone dialing system” as “equipment which has the capacity—(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and (B) to dial such numbers.”

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2. The Bureau seeks comment on what constitutes an “automatic telephone dialing system.” The TCPA defines an automatic telephone dialing system as “equipment which has the capacity—(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and (B) to dial such numbers.” The Commission had interpreted the term “capacity” to include a device “even if, for example, it requires the addition of software to actually perform the functions described in the definition”—“an expansive interpretation of ‘capacity’ having the apparent effect of embracing any and all smartphones.”

The court set aside this interpretation, finding the agency’s “capacious understanding of a device’s ‘capacity’ lies considerably beyond the agency’s zone of delegated authority.”

2. The Bureau seeks comment on how to interpret “capacity” in light of the court’s guidance. For example, how much user effort should be required to enable the device to function as an automatic telephone dialing system? Does equipment have the capacity if it requires the simple flipping of a switch? If the addition of software can give it the requisite functionality? If it requires essentially a top-to-bottom reconstruction of the equipment? In answering that question, what kinds (and how broad a swath) of telephone equipment might then be deemed to qualify as an automatic telephone dialing system? Notably, in light of the court’s guidance that the Commission’s prior interpretation had an “eye-popping sweep,” the Bureau seeks comment on how to more narrowly interpret the word “capacity” to better comport with the congressional findings and the intended reach of the statute.

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Regarding the term “automatic,” the Commission explained that the “basic function[ ]” of an automatic telephone dialing system is to “dial numbers without human intervention” and yet “declined to [clarify] that a dialer is not an [automatic telephone dialing system] unless it has the capacity to dial numbers without human intervention.” As the court put it, “[t]hose side-by-side propositions are difficult to square.”

The court further noted the Commission said another basic function was to “dial thousands of numbers in a short period of time,” which left parties “in a significant fog of uncertainty” on how to apply that notation. How “automatic” must dialing be for equipment to qualify as an automatic telephone dialing system? Does the word “automatic” envision non-manual dialing of telephone numbers? Must such a system dial numbers without human intervention? Must it dial thousands of numbers in a short period of time? If so, what constitutes a short period of time for these purposes?

4. Regarding the provision concerning a “random or sequential number generator,” the court noted that “the 2015 ruling indicates in certain places that a device must be able to generate and dial random or sequential numbers to meet the TCPA’s definition of an automatic dialer,” and it also suggests a competing view: that equipment can meet the statutory definition even if it lacks that capacity.” The court explained “the Commission cannot, consistent with reasoned decisionmaking, espouse both competing interpretations in the same order.” And so, like the court, the Bureau seeks comment on “which is it?” If equipment cannot itself dial random or sequential numbers, can that equipment be an automatic telephone dialing system?

5. The court also noted that the statute prohibits “mak[ing] any call . . . using any automatic telephone dialing system”—leading to the question “does that bar against ‘making any call using’ an [automatic telephone dialing system] apply only to calls made using the equipment’s [automatic telephone dialing system] functionality?” The Bureau seeks comment on this question. If a caller does not use equipment as an automatic telephone dialing system, does it fall under statutory prohibition apply? The court also noted that adopting such an interpretation could limit the scope of the statutory bar: “the fact that a smartphone could be configured to function as an autodialer would not matter unless the relevant software in fact were loaded onto the phone and were used to initiate calls or send messages.” Should the Commission adopt this approach? More broadly, how should the Commission interpret these various statutory provisions in harmony? The Bureau also seeks comment on a petition for declaratory ruling filed by the U.S. Chamber Institute for Legal Reform and several other parties, asking the Commission to clarify the definition of “automatic telephone dialing system” in light of the D.C. Circuit’s decision.

6. Second, the Bureau seeks comment on how to treat calls to reassigned wireless numbers under the TCPA. The statute carves out calls “made with the prior express consent of the called party” from its prohibitions. The court vacated as arbitrary and capricious the Commission’s interpretation of the term “called party,” including a one-call safe harbor for callers to detect reassignments, and noted that the Commission “consistently adopted a ‘reasonable reliance’ approach when interpreting the TCPA’s approval of calls based on ‘prior express consent.’”

The Bureau seeks comment on how to interpret the term “called party” for calls to reassigned numbers. Does the “called party” refer to “the person the caller expected to reach”? Or does it refer to “the party the caller reasonably expected to reach”? Does it refer to “the person actually reached,” the wireless number’s present-day subscriber after reassignment? Or does it refer to “a ‘customary user’ (such as a close relative on a subscriber’s family calling plan), rather than . . . the subscriber herself”? What interpretation best implements the statute in light of the decision? Should the Commission maintain its reasonable-reliance approach to prior express consent? Is a reassigned numbers safe harbor necessary, and if so, what is the specific statutory authority for such a safe harbor? May the Commission, consistent with the statute, interpret the term “called party” to mean different things in differing contexts? How should the Commission’s proceeding to establish a reassigned numbers database impact the interpretation, if at all?

7. Third, the Bureau seeks comment on how a called party may revoke prior express consent to receive robocalls. The court found that “a party may revoke her consent through any reasonable means clearly expressing a desire to receive no further messages from the caller.” Such a standard, the
NOTICE OF TERMINATION OF RECEIVERSHIPS

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The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary, including but not limited to releases, discharges, satisfactions, endorsements, assignments, and deeds. Effective on the termination dates listed above, the Receiverships have been terminated, the Receiver has been discharged, and the Receiverships have ceased to exist as legal entities.

Dated at Washington, DC, on May 31, 2018.

Robert E. Feldman, Executive Secretary.

Federal Deposit Insurance Corporation.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Survey of Consumer Finances (FR 3059; OMB No.7100–0287). FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghraibi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.