

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Targeting and Eliminating Unlawful Text Messages |) | CG Docket No. 21-402 |
| |) | |
| Rules and Regulations Implementing the |) | |
| Telephone Consumer Protection Act of 1991 |) | CG Docket No. 02-278 |
| |) | |
| Advanced Methods to Target and Eliminate |) | CG Docket No. 17-59 |
| Unlawful Robocalls |) | |

ORDER

Adopted: January 24, 2025

Released: January 24, 2025

By the Acting Chief, Consumer and Governmental Affairs Bureau:

1. By this Order, we postpone the effective date for revisions to section 64.1200(f)(9) of the Commission's rules, 47 CFR § 64.1200(f)(9),¹ by 12 months, to January 26, 2026, or until the date specified in a Public Notice following a decision from the court reviewing a challenge to the new rule on the petition filed by the Insurance Marketing Coalition (IMC), whichever is sooner. We take this action pursuant to our authority under section 10(d) of the Administrative Procedure Act, 5 U.S.C. § 705, because we find that justice requires postponement of the effective date pending judicial review of the adopted rule.² The previous requirements for prior express written consent in 47 CFR § 64.1200(f)(9) under the Telephone Consumer Protection Act (TCPA) will meanwhile remain in effect.³ We will provide notice of the new effective date, if any, through publication of a Public Notice in the Federal Register.

2. The *Second Text Blocking Report and Order* revised section 64.1200(f)(9) of the Commission's rules.⁴ The Commission published the revised 47 CFR § 64.1200(f)(9) in the Federal

¹ See *Targeting and Eliminating Unlawful Text Messages, Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket Nos. 02-278, 21-402, 17-59, Second Report and Order and Second Further Notice of Proposed Rulemaking in CG Docket Nos. 02-278 and 21-402 and Waiver Order in CG Docket No. 17-59, 38 FCC Rcd 12247 (2023) (*Second Text Blocking Report and Order*).

² 5 U.S.C. § 705.

³ See 47 CFR § 64.1200(f)(9) (2023). The revisions to section 64.1200(f)(9) adopted in the *Second Text Blocking Report and Order* are displayed currently in eCFR. See <https://www.ecfr.gov/current/title-47/chapter-I/subchapter-B/part-64/subpart-L/section-64.1200>.

⁴ *Second Text Blocking Report and Order*, 38 FCC Rcd at 12258-69, paras. 30-53. The *Second Text Blocking Report and Order* adopted several additional provisions, that we do not postpone. Specifically, the Commission required terminating mobile wireless providers to block text messages from a particular number following notification from the Commission unless their investigation determines that the identified text messages are not illegal; the Commission codified that the National DNC Registry's protections apply to text messages; and the Commission encouraged providers to make email-to-text a service that consumers proactively opt into.

Register on January 26, 2024,⁵ with an effective date of January 27, 2025.⁶ IMC filed a petition for review of the revised section 64.1200(f)(9) in the *Second Text Blocking Report and Order* in the Eleventh Circuit on January 26, 2024.⁷ The court heard oral arguments on December 18, 2024, and its review in this matter remains pending.

3. We find that justice requires postponing the effective date of the new rule pending judicial review. We take this action *sua sponte* under section 705 of Title 5, which provides: “When an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review.”⁸ Several commenters have expressed serious concerns about their ability to comply with the revised prior express consent rule by January 27, 2025.⁹

4. The submissions we have received from commenters since adopting the *Second Text Blocking Report and Order* now persuade us that allowing the rule to take effect on January 27, 2025, likely will cause significant burdens for multiple parties at a time when—following oral argument before the Eleventh Circuit on December 18, 2024—judicial review of the rule is likely nearing completion. Particularly given the advanced stage of the pending judicial proceeding, it is in the interest of justice to provide a limited postponement of the effective date of the rule to avoid imposing new burdens on parties while the court is adjudicating IMC’s challenge to the rule and to avoid subjecting texters and callers acting in good faith to the risk of having to defend themselves against private suits seeking statutory

⁵ Targeting and Eliminating Unlawful Text Messages, Implementation of the Telephone Consumer Protection Act of 1991, Advanced Methods To Target and Eliminate Unlawful Robocalls, 89 Fed. Reg. 5098 (Jan. 26, 2024).

⁶ *Effective Date for One-To-One Consent Rule Set for January 27, 2025*, CG Docket Nos. 02-278, 21-402, 17-59, Public Notice, DA 24-1154 (CGB Nov. 19, 2024).

⁷ *Insurance Marketing Coalition v. FCC*, No. 24-10277 (11th Cir.), filed Jan. 26, 2024. IMC also petitioned the Commission for stay of this revision pending judicial review. *Insurance Marketing Coalition, Ltd*, Petition for Partial Stay Pending Judicial Review, CG Docket Nos. 02-278, 21-402, 17-59 (Mar. 21, 2024) (IMC Petition for Stay). The Commission did not act on that petition. IMC subsequently filed a petition in the Eleventh Circuit for a judicial stay, which the Commission opposed and the court denied. *See Insurance Marketing Coalition, Ltd. v. FCC*, No. 24-10277 (11th Cir. May 30, 2024) (denying stay).

⁸ 5 U.S.C. § 705; *see Virgin Islands Tel. Corp.*, Order, CC Docket No. 90-124, 7 FCC Rcd 4235, 4236-37, para. 13 & n. 15 (1992); *Applications of RKO Gen., Inc.*, Memorandum Opinion and Order, Docket Nos. 18759, 18760, 18761, 89 F.C.C.2d 361, 367, para. 16 nn.19 & 22 (1982). Because we take this action *sua sponte* pursuant to 5 U.S.C. § 705, we dismiss as moot the Emergency Petition for Stay filed by Responsible Enterprises Against Consumer Harassment (REACH) on January 21, 2025. REACH, Emergency Petition For Commission To Consider Stay Of Effective Date Of One-To-One Rule In Light Of Executive Order, CG Docket Nos. 02-278, 17-59, 21-402 (filed Jan. 20, 2025).

⁹ Since the adoption of the *Second Text Blocking Report and Order*, several submissions have asked the Commission to revise or postpone the rule and have made a clear showing of the rule’s compliance burden. *See, e.g.*, Letter from Steven A. Augustino, attorney for LendingTree, to Marlene H. Dortch, Secretary, FCC (Dec. 6, 2024) (requesting a revision to the new rule to permit “curated comparison shopping”); Letter from Yaron Dori, attorney for IMC, to Marlene H. Dortch, Secretary, FCC (Dec. 3, 2024) (stating that there would be adverse consequences from the Commission’s “one-to-one” and “logically and topically associated” consent requirements on small businesses); Letter from Jenniffer Cabrera, attorney for REACH, to Marlene H. Dortch, Secretary, FCC (Oct. 21, 2024) (requesting that the Commission change the phrase “one identified seller” to “one identified seller, entity, or brand” to alleviate many of the unintended consequences stemming from the current language of the one-to-one rule); Letter from Yaron Dori, attorney for QuinStreet, to Marlene H. Dortch, Secretary, FCC (Sept.13, 2024) (requesting that the Commission adopt LendingTree’s proposal for a narrow exception to the one-to-one consent rule for “curated comparison-shopping platforms”); Letter from Steven A. Augustino, attorney for LendingTree, to Marlene H. Dortch, Secretary, FCC (Jul. 12, 2024) (“small businesses will suffer a loss when compared to nationwide, name brand providers”); IMC Petition for Stay at 20 (“Absent a stay, IMC and its members will suffer irreparable harm from the Order, including damage to their business operations, significant compliance costs, and chilling of their speech.”).

damages for a period in which the rule is still undergoing judicial review.¹⁰ Further, we find that providing additional time may facilitate the industry's compliance with the rule if the court upholds it. And a time-limited postponement to maintain the regulatory status quo while judicial review is completed will not pose any undue harm to the public interest. For these reasons, we find that justice requires postponement of the effective date of the rule and we therefore postpone the effective date for the revised 47 CFR § 64.1200(f)(9) of the Commission's rules by 12 months, to January 26, 2026, or until, following a decision from the Eleventh Circuit on the petition filed by the IMC, the Commission issues a Public Notice specifying a sooner date, in which case that sooner date would apply.¹¹

5. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, section 10(d) of the Administrative Procedure Act, 5 U.S.C. § 705, and sections 0.141 and 0.361 of the Commission's rules, 47 CFR §§ 0.141, 0.361, the effective date for the revised 47 CFR § 64.1200(f)(9) is postponed to January 26, 2026 or until the date specified in a Public Notice published in the Federal Register following a decision from the court on the petition filed by the IMC, whichever is sooner.

6. IT IS FURTHER ORDERED that this order SHALL BE EFFECTIVE upon release.

Federal Communications Commission

Eduard W. Bartholme III
Acting Chief, Consumer and Governmental Affairs Bureau

¹⁰ See 47 U.S.C. § 227(b)(3).

¹¹ Should the Eleventh Circuit uphold the rule (or portions of the rule), the Commission will issue a Public Notice not more than 15 business days from the date on which the court issues its decision, announcing an effective date that is not more than 90 days from the date on which the judicial mandate issues following the court's decision.