

ALERT

Commissioner O'Rielly Urges FCC to Address Growing Inventory of TCPA Petitions

March 27, 2014

On March 25, 2014, Federal Communications Commission (FCC or Commission) Commissioner Michael O'Rielly declared on the official FCC blog that it is time to provide clarity regarding the Commission's Telephone Consumer Protection Act (TCPA) regulations. This is the first time that a commissioner has noted an urgent need to act on the growing inventory of TCPA petitions.

Commissioner O'Rielly wrote that the TCPA regulations have become too complex. The TCPA was originally enacted by Congress to protect consumers from abusive robocalls and junk faxes, but the rules have now become "complex and unclear." The Commissioner pointed to the ever-increasing TCPA-related lawsuits and the growing number of FCC petitions as evidence of the need for clear TCPA rules. Speaking of the dozens of petitions waiting at the FCC, Commissioner O'Rielly lamented that "[i]t is very troubling that legitimate companies feel they have to ask the government for its blessing every time they need to make a business decision in order to avoid litigation."

The Commissioner blogged that the FCC has an opportunity to clarify the rules by addressing the petitions. Pending petitions ask the FCC for clarification on a number of issues, including what it means to initiate a call under the TCPA, whether certain devices are automatic telephone dialing systems, and what types of faxes are considered unsolicited. Commissioner O'Rielly asserted that addressing these issues as soon as possible will "restore certainty and reduce the need to file additional petitions."

Commissioner O'Rielly also called for the Commission to "take a hard look at its own precedent." Stating that FCC interpretations of the TCPA have added to the complexity of the law, he specifically

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pointed to the FCC's rules requiring notice to be provided on all fax advertisements (both solicited and unsolicited) as problematic.

Of the dozens of TCPA-related petitions that have been filed, four have open comment periods or have not yet been placed on public notice, including upcoming filing deadlines in March and April, 2014.