

January 3, 2023

FEDERAL COMMUNICATIONS COMMISSION

OMB Control Number: 3060-0519

Requested Action: Non-substantive change/non-material change request

The Federal Communications Commission submits this non-substantive change request to the Office of Management and Budget (OMB) for approval of non-substantive/non-material changes to section 64.1200(a)(3) of our rules.¹ Section 64.1200(a)(3) restricts calls that contain an artificial or prerecorded voice to residential telephone numbers absent the prior express consent of the called party or an exemption. The Commission adopted exemptions, beginning in 1992, for calls to residential numbers that are not made for a commercial purpose, calls made for a commercial purpose that do not contain an unsolicited advertisement, and calls from tax-exempt nonprofit organizations, and for healthcare-related calls subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA). In 2020, pursuant to section 8 of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act), the Commission imposed numerical limits on the number of calls that can be made under these exemptions without the prior express consent of the called party. These requirements were reflected and approved by OMB on September 15, 2021, in OMB control number 3060-0519.

On December 27, 2022, the Commission released an Order on Reconsideration (FCC 22-100) clarifying that callers have the option to obtain consent either orally or in writing to exceed the numerical limits on artificial or prerecorded voice calls to residential telephone lines made under the exemptions contained in our rules. This clarification was made at the request of several parties to allow greater flexibility to obtain consent to exceed the numerical limits on exempted calls.

The clarification to permit oral consent in addition to written consent does not change the estimated burden hours or costs to respondents associated with OMB control number 3060-0519. Similarly, there is no change to the Commission's estimated burden hours or costs associated with this non-substantive change.

¹ 47 CFR § 64.1200(a)(3).