

## Insights

# DEAR PUBLIC, WHAT SHOULD WE DELETE, DELETE, DELETE? BEST REGARDS, THE FCC.

Mar 17, 2025

On March 12, 2025, Federal Communications Commission (“**FCC**”) chair, Brendan Carr, opened a new docket titled *In Re: Delete, Delete, Delete* (the “**Notice**”),<sup>[1]</sup> asking for the public’s help in identifying “unnecessary” FCC rules, regulations, and guidance documents that should be eliminated “for the purposes of alleviating unnecessary regulatory burdens.”<sup>[2]</sup> As Carr outlines in the Notice, this request is being made pursuant to President Trump’s flurry of Executive Orders calling on administrative agencies to unleash prosperity through deregulation and ensure that they are efficiently delivering great results for the American people.<sup>[3]</sup> In a press release announcing *In Re: Delete, Delete, Delete*, Carr stated that he is launching the initiative because unnecessary regulatory requirements “create headwinds and slow down our country’s innovators, entrepreneurs, and small businesses.”<sup>[4]</sup> The Notice, and its outlined purpose, come as no surprise given Carr’s statements regarding his intent to correct the FCC’s regulatory trajectory and his history of opposing what he perceives as heavy-handed regulation.<sup>[5]</sup> The Notice does not ask for comments that outline benefits or any positive aspect of regulations, and the title of the Notice shows exactly what Carr wants... to Delete. Accordingly, businesses should brace themselves for the potential impacts of *In Re: Delete, Delete, Delete*.

## “DELETION” CONSIDERATIONS

Along with welcoming more general comments on rules that should be considered for elimination, the Notice encourages public commenters to consider several policy factors. First, “cost-benefit considerations” should be reviewed, asking whether rules could be eliminated or modified to create “greater benefits relative to the associated costs of the new regulatory framework.”<sup>[6]</sup> Second, commenters should consider “whether experience gained in the implementation of a given rule provides reason to believe that the rule is unnecessary or inappropriate, whether in its current form or otherwise.”<sup>[7]</sup> For example, if a rule has harmed entrepreneurs or small businesses, it might be unnecessary.<sup>[8]</sup> Third, if marketplace and technological changes have rendered a rule unnecessary or inappropriate, the rule may need to be eliminated because it may have “outlived [its] usefulness [and] . . . become outdated.”<sup>[9]</sup> Fourth, commenters should consider whether the regulations in

question function as a “barrier to entry” into the communications marketplace, unfairly imposing costs on businesses.<sup>[10]</sup>Fifth, rules should be evaluated in terms of whether the “broader regulatory context” renders them unnecessary. Perhaps new rules have made an existing rule irrelevant, for example. Sixth, if a statutory provision has changed since a rule was adopted, the rule may not effectuate the new statutory scheme. For example, the Notice specifically mentions the Supreme Court’s *Loper Bright* decision and calls for comments on FCC interpretations of statutory language that should be revisited in light of its overruling of the *Chevron* framework.<sup>[11]</sup>And finally, commenters should consider any other considerations that would render a rule ineffective or unnecessary.<sup>[12]</sup>The Notice also says the FCC is seeking feedback on any court decisions that may have removed a rule’s foundation.

## **IMPLICATIONS FOR THE TELEPHONE CONSUMER PROTECTION ACT (“TCPA”)**

The Notice does not specifically call out the Telephone Consumer Protection Act (“TCPA”) – the frequently-litigated statute broadly governing autodialed and prerecorded/artificial voice calls, text messages, and faxes, providing for statutory damages of \$500-\$1,500 per violation, per class member. Nonetheless, it is easy to see how the considerations listed above could apply to the TCPA. For instance, commenters may argue that the TCPA and its implementing regulations have harmed legitimate businesses while not punishing scammers and criminals, or that technology has changed vastly since the statute was enacted in 1991 such that the law no longer achieves its stated purpose, “to protect the privacy interests of residential telephone subscribers by placing restrictions on unsolicited, automated telephone calls to the home and to facilitate interstate commerce by restricting certain uses of facsimile (fax) machines and automatic dialers.”<sup>[13]</sup> Thus, certain rules and regulations the FCC has promulgated related to the TCPA may come under fire, especially those deemed “business unfriendly.”<sup>[14]</sup>

## **WHAT SHOULD BUSINESSES DO?**

The landscape of the FCC and its regulations has changed rapidly since Carr’s appointment as Chairman and is showing no signs of slowing anytime soon. To ensure their compliance, businesses should keep an ear to the ground for updates that could impact their day-to-day operations and seek experienced legal counsel to discuss concerns. BCLP’s TCPA team will continue to monitor these issues and bring up-to-date news and insight on the FCC, TCPA, and related issues.

Companies may also wish to take this opportunity to file a comment and help shape the FCC’s regulatory agenda. Comments on *In Re: Delete, Delete, Delete* may be filed by paper or electronically via the FCC ECFS website<sup>[15]</sup> and are due April 11, 2025, with reply comments due April 28, 2025.

[1] *In Re: Delete, Delete, Delete*, GN Docket No. 25-133 (March 12, 2025), available at: <https://docs.fcc.gov/public/attachments/DA-25-219A1.pdf> (the “Notice”).

[2] “FCC Chairman Carr Launches Massive Deregulation Initiative,” Office of FCC Chairman Brendan Carr (Mar. 12, 2025), available at [DOC-410147A1.pdf](#).

[3] See, e.g., Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation, 24 Fed. Reg. 9065 (Feb. 6, 2025); see also Executive Order 14219 of February 19, 2025, Ensuring Lawful Governance and Implementing the President’s “Department of Government Efficiency” Deregulatory Initiative, 36 Fed. Reg. 10583 (Feb. 25, 2025).

[4] *FCC Chairman Carr Launches Massive Deregulation Initiative*, Office of Chairman Brendan Carr (March 12, 2025), available at: <https://docs.fcc.gov/public/attachments/DOC-410147A1.pdf>.

[5] See, D. Madden, M. Kohlstrand, and A. Kolb, *What To Expect From The New FCC Chair*, Law 360 (Feb. 20, 2025), available at: <https://www.law360.com/articles/2299970/what-to-expect-from-the-new-fcc-chair>.

[6] Notice.

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Loper Bright Ent. v. Raimondo*, 144 S. Ct. 2244, 2273 (2024) (“Chevron is overruled.”); *Chevron U.S.A. Inc. v. Nat. Res. Def. Council*, 467 U.S. 837 (1984).

[12] Notice.

[13] S. REP. 102-178, 1, 1991 U.S.C.C.A.N. 1968, 1968.

[14] An example of this can be seen in the FCC’s postponement, and the likely demise of, its 1:1 Consent Rule. See, M. Kohlstrand and A. Kolb, *Is TCPA 1:1 Consent Dead?*, BCLP Insights (Jan. 27, 2025), available at: <https://www.bclplaw.com/en-US/events-insights-news/is-tcpa-11-consent-dead.html>.

[15] <https://www.fcc.gov/ecfs/search/search-filings>.

## RELATED PRACTICE AREAS

- Data Privacy & Security

- Telephone Consumer Protection Act (TCPA)

## MEET THE TEAM



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