

TWELFTH CONSUMER ADVISORY COMMITTEE (CAC) SUMMARY OF THE SECOND MEETING

June 26, 2024

The Twelfth Consumer Advisory Committee (CAC 12) convened for its meeting at 11:00 A.M. on June 26, 2024, virtually at [FCC.gov/live](https://www.fcc.gov/live). Keyla Hernandez-Ulloa, Interim Designated Federal Officer (DFO) and David M. Pérez, Deputy DFO, welcomed guests at the meeting and the CAC's Co-Chairs, John Breyault, National Consumers League and Claudia Ruiz, UnidosUS.

In accordance with the provisions of Public Law 92-463, the meeting was open to the public from 11:00 A.M. to 2:34 P.M.

Committee Members Present:

Brian Hurley, ACA Connects

John C. Yang, Asian Americans Advancing Justice - AAJC

Cody Dorsey, Baltimore Digital Equity Coalition

Amina Fazlullah, Common Sense Media

Rachel Sanford Nemeth, Consumer Technology Association

Mickey Slimp, Deep East Texas Council of Governments

Brent Wilkes, Hispanic Federation

Lindsay Stern, INCOMPAS

Katherine (Katie) McAuliffe, Information Technology Industry Council

Radhika Bhat, The Internet & Television Association (NCTA)

Kristen Kelley, LGBT Technology Institute

Kenley Joseph, MMTC

Joslyn Day, Massachusetts Department of Telecommunications and Cable

Liliana Ranon, National Association of Broadcasters (NAB)

Olivia Wein, National Consumer Law Center (NCLC)

Faith Bautista, National Diversity Coalition

Frederick Ellrod, III, National Association of Telecommunications Officers and Advisors (NATOA)

Andy Stutzman, Next Century Cities

Debra Beryln, Project GOAL

Tina Metzger, RuralRISE

AnnMarie Killian, TDI for Access (TDI)

Kasey Suffredini, The Trevor Project

Josh Bercu, Alternate, United States Telecom Association (USTelecom)

Keyla Hernandez-Ulloa, Interim Designated Federal Officer, (DFO) provided Opening remarks, including a statement on Public Accommodations for the meeting.

Alejandro Roark, Bureau Chief, Opening Remarks and Introduced CAC Co-Chairs:

Alejandro welcomed everyone to the meeting and stated the purpose of the meeting was to discuss current and emerging challenges and opportunities in the area of Artificial Intelligence (AI) with regards to robocalls and robotexts and for updates from the CAC Working Groups. He introduced Keyla and David as new officers for this meeting and thanked Cara Grayer and Diana Coho for their work during this past year.

Meeting Called to Order by CAC Co-Chairs

John Breyault, CAC Co-Chair

Claudia Ruiz, CAC Co-Chair

Roll Call of CAC Members

John Breyault took a roll call of CAC Members, by reading the names of virtual CAC members in attendance. See attendance list above.

PRESENTATION 1: Greg Bohl, Chief Data Officer, Transaction Network Services

A copy of the speaker presentation slides are available at <https://www.fcc.gov/consumer-advisory-committee>.

Artificial Intelligence (AI) is simply defined as the capability of a machine to imitate intelligent human behavior. AI stages: 1) narrow, which is the current state; 2) general, that matches human intelligence and 3) super – exceeds human intelligence that is portrayed in movies.

AI types: 1) reactive machines, that respond to stimuli, (e.g., autopilot); 2) limited memory that makes informed decisions (e.g., self-driving car); 3) theory of mind that equals emotional

intelligence; and 4) self-aware that equals obtaining consciousness. (Stages 3 & 4 not yet reached). Discriminative models of AI are normally used by current market providers to prevent fraud and scams. Generative models of AI are technically created and use data embedded in LLM (large language models) to create fraud and scams.

“Deep fake”: images, video and voice created by bad actors using inexpensive or free tools to create fraud and scams. Voice cloning is used to spread misinformation that ranges from mass robocalls/robotexts (e.g., campaign messages) to individual calls for extortion of money (e.g., loved one kidnapped or in an accident.) Voicemails, public speaking and videos are used to produce voice cloning and only three seconds of the recording is needed to create a “deep fake”.

Recommendations by Bohl: As FCC produces rulemakings, the scope should be narrow and specific in definition; being too broad allows workarounds for scammers. Rules should focus on the generative AI modes. Consumers should provide “safe words” for their families and possibly in their presentations to confirm the legitimacy of their voices. Bohl also praised the FCC on how it handled the New Hampshire Biden “Deep Fake” Scam.

Questions and Answers: Brent Wilkes asked for more recommendations on how to ensure the rulemakings were responsive to the frauds/scams. **Bohl** reinforced that the scope of the rulemakings should be specific, which may cause multiple orders to be effective. **Mickey Slimp** asked about the use of safe words and how to use them. **Margot Saunders** mentioned that under the Telephone Consumer Protection Act (TCPA), the use or benefit of the call does not determine the legality of the call that uses AI unless it relates to an emergency.

PRESENTATION 2: Raul Rojo, Attorney Advisor, Telecommunications Consumers Division, Enforcement Bureau, FCC

A copy of the speaker presentation slides are available at <https://www.fcc.gov/consumer-advisory-committee>.

This presentation focused on an AI robocall investigation. The robocalls targeted New Hampshire residents with a realistic AI deep fake message with President Biden’s voice and encouraged recipients not to vote in the January 2024 New Hampshire Presidential Primary Election, stating that it was more important to save votes for the Presidential Election. The voice was relaxed and realistic.

Spoof caller ID was utilized, where the call appeared to be from the personal cell phone number of Kathy Sullivan, a former state Democratic Party chair. Her phone number was used without her consent. Consumers were angry and confused. The White House confirmed that the call was a fake and was not President Biden.

There can be many providers/steps between the originator and consumer. Traceback is a process of following the call in reverse from the consumer all the way back to where the call originated. Using this process, Lingo Telecom was determined to be the originator. Steve Kramer, a political consultant, used this service to place the calls.

Kramer met Paul Carpenter, a magician and hypnotist, at a New Orleans music festival. Kramer had Carpenter create the message. Carpenter claimed to be an AI expert to Kramer. Carpenter also stated he did not know what the call was being used for and thought President Biden was supportive.

The FCC used both short-term and long-term steps for its approach. One short-term step used was to disrupt the calls. The FCC issued warnings to service providers, issued a public notice to warn the industry of a bad actor, and highlighted dangers to the public. The long-term step is to hold the responsible party accountable.

February 6, 2024 – The FCC issued a Public Notice that permits downstream providers to block calls from a notified provider that fails to either; (a) effectively mitigate the identified traffic within 48 hours or (b) implement effective measures to prevent new and renewing customers from using its network to originate illegal calls).

The FCC issued a robocall Cease and Desist Letter to Lingo Telecom, which listed steps to be taken and a timeline for action/reporting. The FCC also released a Notice of Apparent Liability to Steve Kramer. The FCC had to prove certain elements: that he acted knowingly, provided inaccurate information, and had an intent to cause harm. Kramer acknowledged he chose Sullivan's number, and it was easy to prove these elements.

The FCC is constantly learning every day about AI technology and how to adapt. When AI calls first started, they weren't really realistic, but now that has very much changed.

Questions and Answers:

Claudia Ruiz: Something particularly egregious in this situation was that the phone number was spoofed, which adds another layer of legality. Are there requirements in place that carriers can be using to detect when a call is spoofed? What protections can we put in place? It is important for carriers to know they're customers and whether they have a right to use a certain phone number.

John Breyault: Clearly the headlines were that AI was being used to create deep fake audio, but then when you describe the illegality of the case, the fact that AI was used was incidental to the rest (the violation of TCPA, the violation of the truth, and the violation of using Sullivan's phone number). Is that an accurate summation? Did the FCC move quickly in this case because it was President Biden's voice? Although it may not have gotten the same attention if it was a grandma and not President Biden, not necessarily. **Rojo:** The FCC is very quick to act if there is an effect on the community, and there was definitely public outcry that was pretty significant, which is what helped the investigation process to go a bit quicker. However, the Cease and Desist and (k)(4) Public Notice processes have been very effective and used for other scams.

Faith Bautista: Bad actors always go after people that don't know how to make a complaint. You said Kramer got fined \$6 million. Did affected consumers get any compensation? Where does money go? Education and outreach? How do you help with education and outreach? How does the FCC handle immigrants being targeted?

Rojo: The money goes to the Department of Treasury, not to consumers. Congress didn't allow for that. That being said, the FCC puts significant efforts into educating consumers through social media notifications and letters that go out. The FCC shows what the consequences are to deter others. Immigrants are very much a concern, and unfortunately, they are targeted. We take that very seriously, investigate, and go after bad actors as soon as we can. We do many outreach efforts in Spanish. One example is the student loan scams. We reached to Spanish-speaking radio to do PSAs to educate the community.

John Breyault: The use of this type of software can be used by consumers with disabilities to make calls. How does that enter into the FCC's thinking when investigating these situations? This type of software can be used in both scenarios, and we are not trying to deter innovation. The FCC moves quickly to shut down the call, but not every AI service that can be used by those with disabilities.

Claudia Ruiz: Is there any blind spot we have, whether rule making or policy? Technology is not to 100 percent capable of verifying that a call is AI-generated or if it's an actor. As technology gets better, there will be a threshold that we won't be able to tell which it is. We will need to learn as time goes on, and cross that bridge when we get there.

Kenley Joseph: Why wasn't Carpenter subject to enforcement since he worked with Kramer? The FCC is able to go after the individual that made call. There is some doubt as to if Carpenter knew what they were being used for, and he stated that he didn't know that President Biden wasn't supportive of this.

Brent Wilkes: These were obviously not sophisticated actors, but my concern is that more sophisticated actors will try to influence the presidential election at the last minute before the FCC can issue enforcement, like using overseas third parties. Has the FCC considered that, and how are you preparing to prevent that?

Rojo: Yes, that's a concern. The ability to stop calls remains relatively steady, and the FCC is flexible enough to stop calls whether they are overseas or not. The FCC is surveilling and working with partners like the Department of Justice. But yes, we are aware that next ones may be more sophisticated.

LUNCH BREAK

David Perez, Deputy DFO for the Consumer Advisory Committee welcomed everyone back from break. David reminds everyone to submit comments and questions to livequestions@fcc.gov. David introduced **John Breyault, Vice President of Public Policy, Telecommunications, and Fraud, National Consumer League, chair of Working Group #1.**

Report by Working Group #1 – Technical

John Breyault, CAC Working Group #1 Chair provided a report for Working Group #1 focused on AI technical issues.

Since the April 4, 2024, CAC meeting the working group has convened and met three times where they have spent time talking about the questions posed in the charge letter. How is AI defined? In several places throughout the charge letter we have been asked to weigh in on how

the Commission's work is affected by the rise of artificial intelligence as it relates to robotexts and robocalls, and how AI is being used for people with disabilities to make calls, and how the Commission can have education for all of its stakeholders. The definition the White House used is “a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments. Artificial intelligence systems use machine- and human-based inputs to perceive real and virtual environments; abstract such perceptions into models through analysis in an automated manner; and use model inference to formulate options for information or action.”

What is a malicious calling purpose? It is a call intended to take something of value from the called party. That would be a malicious calling purpose under the definition we are talking about.

What are the tools the Commission has at its disposal already? Based on the declaratory ruling and the actions it has taken, the Commission has been focusing on using the TCPA as the main tool in the toolbox for this. One thing we have been talking about is how might the tools available to the FCC be affected by some of the tools that are being used by malicious callers in the future that may be using AI? We heard a lot about voice cloning and how it's being used. One question is how AI is being used beyond voice cloning that robocallers and texters may use in the future that might be legal under TCPA or other statutes like the TruthinCaller ID Act.

One of the questions we have been looking at is how might AI be used in other ways that may be illegal under FCC rules? Some things we talked about are identifying potential victims, testing network anti-robocaller defenses. The response from the conversation has been we need to make sure we are not straying into Federal Trade Commission (FTC) territory. It may be illegal under a law with FTC jurisdiction or a state AG takes it on and it's not specifically under the FCC's authority.

How do we deal with hallucinations or other distortions that AI may create? Is there a need to make sure how AI is used is being done in a transparent way? The other issue we have talked about is that there is a need to perhaps talk about a safe harbor? For example, if carriers are reluctant to try out a new AI-based method protecting consumers, do we need to look at that issue?

Debra Berlyn recommends broadening the definition of malicious calling, not only taking something of value, but also misleading consumers to take a malicious action. Raul Rojo talked about earlier today in the case of the New Hampshire robocalls. A woman's phone number was spoofed, she received a number of calls that she had to deal with as a result of that illegal activity. In that case she may not have lost money out of her bank account in terms of traditional fraud. Certainly, it was annoying and intrusive to her life. I suppose you could put a value on it if you started to say how many minutes or hours she had to spend answering those calls and attach a dollar value to that as being something of value.

Breyault referenced Margot Saunders mentioned on many calls and it is important to raise here; and it is something we touched on with Raul Rojo's presentation: The incidental nature of AI in the context of illegal and unwanted robocalls and robotexts. He did detect some consensus among the working group, which is that under the FCC's notice that AI -- the use of AI is illegal in a TCPA context. The actual content is not as important at least as the context of the transmission of the call itself that might violate the law.

While the FCC's reach into privacy is up for some debate, we have the privacy risk of technologies that may be used for malicious calling purposes and ones that are actually designed to help consumers to avoid on wanted robocalling and robotexts.

How AI is being used by people with disabilities? We know for example that AI technology is now being used in ways that help people with disabilities make calls. That technology is rapidly developing and improving. I spoke with a colleague just the other day who mentioned how the new version of Apple's devices enable things like eye tracking. AI enabled speech to text. Making sure that the recommendations we put out from our working group are cognizant of those. The recommendations don't inadvertently affect the development of those technologies, or at least they don't ask the FCC to take positions that would negatively affect the developing of those technologies.

Report by Working Group #2 – Outreach

Claudia Ruiz, CAC Working Group #2 Chair provided a report on Working Group 2 focused on outreach and education.

Claudia Ruiz summarized the issues discussed during the Working group #2 meetings held to date. She commented on how information gleaned from the AI presentations could inform those discussions and help the working group develop outreach recommendations. She indicated that the topics that could be addressed might include information on how consumers can protect themselves, best practices that can be shared in identifying and reporting AI generated robocalls, and a review of the FCC's regulatory authority as well as the FCC's consumer complaint process. Ruiz also brought up the need to create in-language materials for non-English speakers, address accessibility issues, and consider ways to reach those members of the public who do not use the internet, especially now that the Affordable Connectivity Program has ended.

Breyault added his comments and questions regarding the uses of AI. He commented that AI is making it easier to make robocalls calls and to make them more convincing making it more difficult to distinguish between scams and legitimate calls. Other working group members chimed in on this part of the discussion, provided examples, and agreed on its relevance to the CAC's working group meetings and recommendations. He asked whether working group #2 was looking into blocking tools and the need for a consumer education piece around how and when they can be used to combat AI generated robocalls. He also wanted to know more about how the disability community is using AI and how this comports with the TCPA.

Working group member **AnnMarie Killian** provided more context regarding the disability community and agreed to provide a list of suggested experts who could potentially present on these topics at future working group meetings.

Working group member **Faith Bautista** commented on the need to include broadband literacy citing several examples and challenges affecting non-English speakers, older adults, and other demographic groups who are not familiar with current terminology, how to use smartphones or other devices to access the internet. She also offered up examples of how these populations are being targeted and scammed.

Working group member **Micky Slimp** suggested that the working group focus on single message outreach which could include a suite of short fact sheets with targeted information on various topics.

Claudia Ruiz suggested that the working group also consider mechanisms for delivering messaging as well as partnering opportunities. Examples might include conducting field office town halls and working with groups at local level, including law enforcement, to help consumers learn what their rights and responsibilities are.

QUESTIONS AND COMMENTS FROM THE PUBLIC

No comments or questions were submitted by members of the public during this meeting.

CLOSING REMARKS

John Breyault reminded all CAC members from both working groups to submit materials on Box, the FCC's file sharing service. He indicated that this is where CAC files would be stored and shared including meeting minutes, list of CAC members, and the charge letter.

David Perez, Deputy DFO, reminded CAC members that their listserv is set up and an email is forthcoming with more details. The general public can go to FCC.gov under the Events page to access the CAC meeting agenda, presentations and other related files.

Breyault also reminded the CAC members to save the date for the final CAC meeting which will be held in person, at FCC Headquarters, on September 24, 2024. The CAC will vote on final recommendations during this meeting. He advised the members to be on the lookout for emails that will be sent beforehand with draft recommendations for their review.

Breyault thanked the members, the FCC staff, and everyone who made this meeting possible. **Ruiz** echoed his sentiments in her brief closing remarks.

ADJOURNMENT

The meeting adjourned at 2:34 P.M.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete. Additional details of the meeting may be found in the recorded video, available at www.fcc.gov/consumer-advisory-committee.

John Breyault, National Consumers League

Claudia Ruiz, UnidosUS