

The Federal Communications Commission (FCC) is expected to adopt a Notice of Proposed Rulemaking (NPRM) that could affect businesses that either operate customer service call centers outside the US, or rely on third parties to do so. The stated intent of the FCC's proposal is to facilitate the onshoring of these call centers.

As proposed, such call centers outside the US would face new obligations and restrictions on their ability to make calls. These include English proficiency requirements, caps on the percentage of calls that can be handled by offshore call centers, granting consumers the right to transfer calls to a US-based call center and prohibiting certain types of calls from being handled by foreign call centers.

Why Is the FCC Considering This Proposal?

The FCC justifies the proposal on several grounds. It cites numerous consumer complaints about unhelpful interactions with representatives at foreign call centers. But it places particular emphasis on the lack of data security at foreign call centers. The FCC notes that some call centers have failed to protect consumers' sensitive personal information. It points to foreign laws that provide fewer protections for sensitive customer information, and potentially require companies to disclose private information to foreign governments. This emphasis on national security concerns and the vulnerability of consumer information has become a hallmark of FCC Chairman Brendan Carr's agenda.

The FCC also points to its jurisdiction under the Telephone Consumer Protection Act (TCPA), and its concern with scam calls originating abroad. Specifically, it indicates that "some of the foreign scammers who make scam calls to the US have trained in foreign call centers that made and answered calls legitimately on behalf of businesses from the US and Canada."

In the end, however, the America-first and job-repatriation framing that Chairman Carr used in this public announcement is inescapable. How the proposal and potential modifications could contribute to onshoring foreign call centers is likely to be a key consideration as we move forward.

Who Would Be Covered?

That is not entirely clear. As proposed, the rules apply to the call centers of providers of telecommunications services, commercial mobile services, interconnected Voice over Internet Protocol (VoIP) services, cable television services and direct broadcast satellite (DBS) services (Covered Providers). These are companies traditionally subject to the FCC's jurisdiction.

Indeed, the FCC makes clear that part of its motivation is that consumers "often are not satisfied with the customer service they receive from providers that have moved their customer service operations to offshore call centers."

But there are clear indications that the FCC is considering a potentially much broader application.

First, the proposal would apply to "affiliates" of the Covered Providers listed above. Per the NPRM, that would include any entity that provides internet access service, and meets the definition of "affiliate" in Section 153(2) of the Communications Act.

Second, the FCC is asking whether the proposed rules should apply to providers of internet-only services, such as internet access and non-interconnected VoIP, even if they have no affiliation with a Covered Provider.

Third, the FCC is asking whether the proposed rules should apply to non-voice communications such as email, text messaging and online chat. These services are not currently classified as telecommunications services under the Communications Act.

Fourth, the FCC indicated that call centers operated by third parties on behalf of Covered Providers may be subject to the same requirements, on the grounds that entities subject to FCC regulation are responsible for the acts and omissions of their employees and independent contractors. That means that any business, whether regulated by the FCC or not, that operates foreign call centers for Covered Providers could be subject to the proposed rules.

Fifth, the FCC expressly opens the door to a much broader application of the proposed rules, beyond call centers used by Covered Providers or run by third parties on their behalf. Specifically, the FCC cites its jurisdiction under the TCPA to ask whether it should "extend some or all of our proposals to all calls covered by sections 227(c) and (d) [of the TCPA] that originate outside the US, not just calls on behalf of the types of providers already discussed." That could include all calls made using any automatic telephone dialing system, and/or artificial or prerecorded telephone messages. The FCC's fact sheet makes plain that this could encompass all calls covered by the TCPA, "whether or not placed by communications service providers." This portion of the proposal is one to watch, as it could dramatically expand the reach of the rules to any business that uses call centers outside the US. The industries that have been at the center of TCPA litigation and regulation – debt collectors, financial services companies, healthcare organizations and retailers – would then be at the center of the FCC's efforts.

Does the Proposal Only Apply To Voice Calls?

Not necessarily, the proposed rules facially apply to phone calls placed from, or received at foreign call centers used by Covered Providers. However, the FCC is considering whether the proposed rules should be broadened to cover non-voice communications such as email, text messaging and online chat.

What New Requirements Would Apply To Call Centers Outside the US?

- **Percentage cap on calls** – The FCC is proposing a cap on the percentage of a Covered Provider’s calls that may be handled by a foreign call center. The proposed cap is 30%, but the FCC is seeking comments on whether that limit would be appropriate and effective to improve customer satisfaction. To ensure that Covered Providers have sufficient capacity in their domestic call centers to handle the required operational volume, the FCC is considering phasing in this requirement to allow such providers time to transition their operations as needed.
- **Prohibition of certain calls** – The FCC is considering mandating that phone transactions involving passwords, multifactor authentication information, or bank account or credit card information be handled exclusively in US-based call centers. Covered Providers would be required to use domestic call centers for such communications, regardless of the number of other calls handled in foreign centers and independent of any cap imposed on overall foreign call center volumes.
- **English proficiency standard** – Covered Providers using call centers outside the US would have to ensure that their customer representatives are proficient in spoken and written American Standard English, including an understanding of the tone, idioms and culture associated with English in the US. No specific criteria are proposed to evaluate compliance with this requirement, but the FCC notes that assessments such as the Occupational English Test, Test of English as a Foreign Language and Test of English for International Communication, though all tailored to different applications, may be useful.
- **Location disclosures** – Covered Providers would be required to inform customers at the beginning of each call made to, or received from a foreign call center that the call is being handled outside the US.
- **Consumer right to transfer calls** – Covered Providers would be required, upon consumer request, to transfer calls to a call center located within the US. The transfers would need to be made promptly and wait times for transferred calls would not be permitted to exceed those for calls originally routed to a US-based call center.
- **Foreign adversaries** – The FCC is considering prohibiting the operation of call centers in “foreign adversary” nations (e.g., China), or in countries that the FCC has reason to believe would use information about US citizens against those citizens or the US at large.

- **Sensitive transactions and information** – The FCC is proposing to prohibit Covered Providers from handling consumer transactions involving sensitive information (such as passwords, and bank and credit card account information) in call centers outside the US. It is also proposing to prohibit Covered Providers from making this sensitive information available at calling centers outside the US. This transaction-level restriction would apply regardless of the type of communications channel, including calls, e-mails, text messages and online chats.
- **Tariffs and bonds** – The FCC is considering measures to increase the cost of unlawful calls originating outside the US. One option is establishing a tariff that would apply to unlawful calls coming from foreign countries. Another option is requiring Covered Providers to post a bond that would be drawn upon in cases of unlawful calls. Such a requirement may broadly apply to other providers, such as all entities that file in the FCC’s Robocall Mitigation Database, or specifically to providers that have been the subject of traceback requests or enforcement actions. The bond may be drawn upon to satisfy FCC enforcement action, such as liability for unlawful calls, or other government enforcement actions or civil liabilities.
- **Compliance reporting** – Covered Providers would be required to file reports on a regular basis, potentially monthly, quarterly or annually, regarding the English proficiency of their foreign call center employees, the number of calls transferred to US-based call centers and wait times associated with call center transfers.

Should I Be Concerned if I’m Not a Covered Provider Subject to the FCC’s Jurisdiction?

Yes, the core of the FCC’s proposal focuses on Covered Providers and the call centers located abroad that they use (even if run by a third-party) to communicate with their own customers. As mentioned above, however, the FCC is plainly contemplating expanding the scope of its proposal to calls covered by the TCPA, regardless of who originates or receives them. Moreover, the proposed tariff on “unlawful calls” is being proposed to apply generally, not just to Covered Providers.

What Should We Keep an Eye On?

At this point, the proposal is just a draft. There could be changes by the time the FCC considers it at its monthly Open Meeting on March 26, 2026. Even then, the proposal’s adoption would trigger a period of comments and reply comments that are likely to further impact its scope and details. As things stand now, there are five key issues worth monitoring.

- **Defining “Covered Providers”** – The most critical question is likely how far the FCC will go in defining which businesses will be subject to its proposed rules. Will the FCC limit regulations to call centers used by Covered Providers to engage with their customers, or will the FCC rely on the TCPA to extend it to all covered by the TCPA, regardless of who originates or receives them? It is also unclear what would happen to call centers that Covered Providers operate on behalf of third parties (i.e., not for their own customer service purposes). Will those call centers ultimately come under the FCC’s regulatory oversight?

- **Who's next** – Chairman Carr has made it clear that he views this as a first step for other federal agencies to emulate within their jurisdictions. Whatever the FCC ends up doing could easily become a template for other regulators.
- **Defining "American Standard English"** – This is not an area that the FCC can claim substantial experience. At the same time, a standard defined broadly could reshape global hiring practices across industries far beyond telecommunications.
- **Downstream implications** – If call centers outside the US are forced to onshore their operations, those costs and restrictions will flow downstream. Service agreements and data handling arrangements likely would have to be revised significantly. We are not close to that point yet, but we could get there quickly if the FCC relies on its expansive application of the TCPA to reach calls originated or received by any call center outside the US.
- **Jurisdictional questions** – Debates about the FCC's authority are more relevant than ever after the Supreme Court's *Loper Bright* decision. There are legitimate questions as to whether the FCC's jurisdiction to regulate unjust and unreasonable practices extends to how Covered Providers staff and operate customer service functions (as opposed to how they transmit calls and otherwise offer their services). There are likewise legitimate questions as to how far national security concerns can justify the FCC's proposed actions, given that it is simultaneously proposing to extend them to entities that do not require an FCC international Section 214 authorization.

We will be closely following the developments as the proposed rules are finalized and then subject to public comment, before becoming effective.

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