CLIENT ALERTS & INSIGHTS

SCOTUS Rejects FCC Edicts: Courts are (Finally) Free to Interpret the TCPA

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In a highly anticipated decision with broad implications for Telephone Consumer Protection Act ("TCPA") litigants, on June 20, 2025, the Supreme Court issued its decision in McLaughlin Chiropractic Associates, Inc. v. McKesson Corp., 23-1226. This decision eliminates a major advantage long enjoyed by the plaintiff's bar in TCPA litigation-automatic and mandatory deference to FCC guidance. SCOTUS now clarifies that federal district courts are **not bound by FCC interpretations** in civil proceedings.

The FCC has long attempted to address what it perceives as policy gaps by expanding its interpretations of TCPA statutory provisions, even beyond the plain language of the Act. Courts across the country, due to the *Chevron* doctrine, considered deference to agency orders as necessary. Last year, SCOTUS overruled and ended the Chevron deference era in *Loper Bright Enters. v. Raimondo*, 22-451. Following, the Eleventh Circuit warned that the FCC "exceeding statutory authority is a serious defect." Despite this shift, plaintiffs maintained the argument that FCC deference was indeed mandated by the Hobbs Act-which grants federal appeals courts exclusive jurisdiction to "determine the validity of all final [FCC] orders".

On June 20, 2025, SCOTUS's decision resolved this at-issue question of whether the Hobbs Act mandates district courts to defer to FCC pronouncements interpreting the TCPA, *even if* those interpretations are inconsistent with the plain language of the statute. And the Supreme Court's answer in *McLaughin* was "no."

The Court's ruling stems from trial court and appellate decisions that treated FCC decrees-like the *Amerifactors order*-as binding. In that order, the FCC concluded that online fax services fall outside the statutory definition of traditional "telephone facsimile machines." SCOTUS's opinion swiftly rejects the notion that courts are "*absolutely bound* by the FCC's interpretation of the TCPA." Justice Kavanaugh, writing for the Court, reasoned that absent a congressional indication expressly precluding judicial review, courts should retain such review authority to determine the law's meaning, with "appropriate respect" for the agency. "When Congress wants to bar a district court [it] can and must say so." Indeed, the Court added:

> ***We do not presume that Congress silently intended to preclude judicial review in enforcement proceedings. Rather, the default rule is that district courts in enforcement proceedings may conclude that an agency's interpretation of a statute is incorrect.***
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> ***...***

In short, the Hobbs Act does not bar McLaughlin from arguing in the district court enforcement proceeding that the FCC's interpretation of the TCPA is incorrect. The Hobbs Act dictates how, when, and in what court a party can challenge a new agency order before enforcement. The Act does not purport to address, much less preclude, district court review in enforcement proceedings. So the District Court in this enforcement proceeding can decide what the statute means under ordinary principles of statutory interpretation.

Today, the *McLaughlin* decision confirms that district courts-and the parties before them-are not bound by FCC orders. In tandem with *Loper Bright*, the message is clear: automatic judicial deference to the FCC is over. This change expands the toolkit for litigants, particularly for defendants arguing that the FCC cannot simply issue policy-driven edicts to rewrite the plain language of the statute.

The short-term effect of *McLaughlin* will be that litigants have more freedom to argue against FCC interpretations of the TCPA. It is to be seen whether trial courts, or appellate courts, will take the step of disagreeing with or disregarding FCC orders and TCPA interpretations. Certain agency interpretations, as made clear in *Loper Bright*, may remain persuasive. While *McLaughlin* no doubt changes the game, it is too soon to say whether it changes the landscape. Time will tell. Consultation with counsel will be essential in moving forward to determine what arguments to make and how to plan ahead.

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