

# Telecom Carrier and Consumer Groups Stress Critical Need to Maintain Landmark Consumer Privacy Law to Protect Integrity of Communications System and Curb Robocalls in U.S. Supreme Court Case

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Washington, D.C. - The National Consumer Law Center, the Consumer Federation of America and Verizon filed a joint amicus brief in *Barr v American Association of Political Consultants*, a case before the U.S. Supreme Court in which a group of robocallers is challenging the constitutionality of a provision of the Telephone Consumer Protection Act (TCPA), which plays an integral role in protecting the country's communications customers as well as the communications system from being deluged by automated, unsolicited calls to mobile phones. This represents a compelling interest sufficient to justify any narrow restrictions on speech inherent in protecting consumers and the communications network from such calls.

"We wrote this brief with Verizon to emphasize to the Court how the federal Telephone Consumer Protection Act is absolutely essential to limiting unwanted robocalls to our cell phones," **said Margot Saunders, senior counsel to the National Consumer Law Center.** "Without the TCPA, robocallers would be unleashed, and families, businesses, and public safety would be at risk."

"In contrast to legitimate calls made by companies to their customers, **the TCPA prohibition on robocalls to cellular subscribers without consent constitutes a critical protective measure that, if removed, would risk exponentially increasing the already large number of unwanted robocalls and rendering legitimate calls ineffective.** Telephone users in the United States receive billions of autodialed calls monthly, including both calls that are in compliance with the TCPA, and calls that violate it. Many of the callers who make the calls do not just flout the TCPA but also hide from detection by changing the "calling party number" transmitted with their calls so that the calls appear to be coming from someone else. These autodialed calls often go beyond nuisance marketing to furthering dangerous scams such as impersonating personnel from the Internal Revenue Service or the Social Security Administration, thus imperiling the financial well-being of hundreds of millions of recipients. In addition to being a major consumer protection problem, the flood of illegal robocalls harms legitimate companies that use autodialers for calls their customers affirmatively want to receive, but that increasingly find that their contact rates are falling because of consumers' wavering trust in incoming voice calls.

"In other words, **absent the consent requirement for calls to cellular telephones, cellular customer would have no protections from any robocalls except for those few telemarketing calls that violate the do-not-call lists.** As is the case with residential customers today, the TCPA

would place no limit on numerous categories of calls that—while wanted if consented to—many consumers consider to be intrusive absent consent, such as: charitable calls; informational calls; telephone survey calls; political calls; and phishing calls that do not seek to sell anything, but seek only to further the collection of identity-stealing information from the called parties.

“The average Verizon wireline residential customer receives more than *twice* the number of spam robocalls than the average wireless customer,” according to **Chris Oatway, Verizon associate general counsel for consumer matters**. “That’s because wireless customers enjoy greater protections under the TCPA. Eliminating those heightened protections for wireless customers would undercut our efforts to protect our customers from robocalls, which is why Verizon appreciates the opportunity to partner with the consumer protection community on this issue. We thank the National Consumer Law Center for its continued leadership in the fight against robocalls.”

“Because of the steady drumbeat of unwanted automated calls to cell phones, and the rising—and sometimes dangerous—nature of the scams made through these calls, the nation’s telephone system has already suffered a loss of trust. The TCPA’s prohibition against making automated calls to cell phones is an essential tool to combat unwanted robocalls that would threaten to overwhelm American consumers and the nation’s telephone system if the limits imposed on these calls by the TCPA were removed.

“...although Amici do not, in this brief, take any position on the TCPA exemption at issue in this case, the fact that the TCPA does not prohibit every single non-consented, non-emergency call to cellular phones, and also allows the FCC to promulgate certain limited exemptions, does not on its own undermine this compelling interest. Not only are these exceptions limited to narrow circumstances, but there is no evidence that they have contributed materially to the explosion of robocalls or undermined the TCPA’s purpose. These minimal exceptions to the TCPA’s general protections do not in any way justify a ruling from this Court that would undermine Congress’ ability to adopt the TCPA’s general prohibition on non-consented-to calls to cellular phones.”