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Good morning Senator Slossberg, Representative Caruso and members of the Committee. My name is Andrew Schneider, Executive Director of the ACLU of Connecticut, and I am here before you today to express our view that House Bill 5660, An Act Prohibiting Political “Robo” Calls, diminishes the exercise of rights crucial to our democratic process. Therefore, we urge defeat of this bill.

A major purpose of the First Amendment is to protect political speech. Historically, the courts have afforded greater protection to political speech over other speech. Currently, the Do Not Call registry exempts political calls and calls for charitable contributions because, unlike commercial calls, those calls involve speech that receive a higher degree of protection under the First Amendment.

House Bill 5660 is also a content-based restriction of political speech by singling out an automated call that leaves “a message concerning a candidate for political office” for prohibition “unless the group or individual placing the call receives the approval of that candidate. This would effectively censor many advocacy groups who wish to weigh in on an election as well as silence a candidate who wished to use this medium to criticize their opponents positions. Even worse, this bill would promote viewpoint discrimination by the likelihood that only positive automated candidate ads would be permitted while those critical of a candidate would not. Yet at the same time, automated calls of a different political nature, which do not invoke a candidate, like those promoting the environment or opposing abortion are left unrestricted. The courts have generally viewed such content-based restrictions unfavorably.

The discretionary power that this bill delegates to private individuals -- the candidates -- to prohibit the speech of others would also have trouble passing constitutional muster.. Courts have viewed such delegations with suspicion ever since the seminal case of *Marsh v. Alabama* in 1946.

This bill would hinder the free use of one form of communication and thereby favor mediums which would be less advantageous for this type of political speech. Automated calls are one of the most effective ways to reach targets of political or charitable calls and so a restriction limiting those calls would be problematic because alternative avenues for

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those communications would not be available. For example, direct mailings, calls by a live person, or door-to-door contacts are more costly, less timely, and less effective.

As importantly, the bill impinges not only upon the rights of the sender, but upon those of the recipient as well. It is long settled that the First Amendment protects the right of a willing listener to receive information as much as it protects the right to speak. The bill, accordingly, blocks their access to information that they may wish to receive.

Ways to regulate these calls that do not infringe on First Amendment rights already exist under the requirements of the federal Telephone Consumer Protection Act (TCPA), and the Federal Trade Commission's implementing regulations. Under the TCPA, the recipient's phone line must be released within five seconds, which precludes the caller from immediately redialing the number for those who hang up. In addition, the TCPA requires the identification of the caller at the beginning of all automated calls, it prohibits the caller from making calls between the hours of 9 p.m. and 8 a.m., and it requires the caller to state the telephone number or address of the caller.

While political "robo" calls are a method of communication of some annoyance, the First Amendment, if it stands for anything, is for the protection of speech we find unpopular, offensive or even annoying. This legislation runs afoul of the First Amendment by singling out certain political speech for restriction when adequate alternative channels for this important medium of speech are not available. The ACLU of Connecticut therefore urges this Committee to reject this legislation.