OLR RESEARCH REPORT

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ROBOCALLS

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You asked for information on robocalls.

SUMMARY

Robocalls are phone calls that use a computerized autodialer that plays a recorded message when the phone is answered. Both federal and state law limit the types of robocalls a consumer or business may receive.

Federal law and regulations require telemarketers to obtain prior written consent before placing robocalls to consumers. Regulations also require them to provide an automated interactive opt-out mechanism during each robocall.

State law bans robocalls that (1) do not disconnect immediately when a consumer hangs up and (2) attempt to sell goods or services.

Although "Do Not Call" registries limit the number of telemarketing calls, robocalls are illegal even if the phone number is not registered on the "Do Not Call" lists.

FEDERAL

Law

The Telephone Consumer Protection Act (TCPA) prohibits telemarketers from using robocalls (1) initiated to any residential telephone without the prior express consent of the called party, unless the call is initiated for emergency purposes or (2) so that two or more telephone lines of a multi-line business are engaged simultaneously (47 U.S.C. § 227).

Regulations

Under the TCPA, both the Federal Trade Commission (FTC) and Federal Communication Commission (FCC) regulate robocalls. In 2012, the FCC adopted regulations that largely mirror the rules the FTC adopted in 2008. As a result of these new regulations, companies such as banks, telephone companies, and airlines, which are exempt from FTC regulation, now need to comply with these requirements.

Federal regulations require telemarketers to obtain written consent from consumers before making robocalls to them. This can be on paper or through electronic means, including website forms, a telephone keypress, or a recording of oral consent. Additionally, telemarketers cannot make robocalls or send texts based solely on an “established business relationship” (16 C.F.R. Part 310).

Federal rules also require telemarketers to have an automated interactive opt-out mechanism that allows a consumer to opt out of receiving additional telemarketing robocalls immediately during a robocall. The opt out will automatically add the consumer’s number to the caller’s company specific “Do Not Call” list and must immediately disconnect the call. For calls that are answered by voicemail or answering machine, the message that is left must include a toll-free number that the consumer can call to be connected directly to the automated opt-out system.

Exemptions

The federal regulations do not apply to robocalls made by or on behalf of tax-exempt nonprofit organizations or political candidates. But such messages must identify who is initiating the call and include a telephone number or address where the initiator can be reached.

Additionally, the regulations allow purely informational messages, even if they are commercial in nature. For example, an airline may use a robocall to inform passengers that their flight has been delayed.

Penalties/Enforcement

An aggrieved party may bring a lawsuit in state court for appropriate action. For each violation, the party may seek (1) a court order to prohibit future calls and (2) to recover damages equal to actual monetary loss or up to $500, whichever is greater. If the telemarketer is found to have willfully or knowingly made the calls, the penalty increases to up to $1,500 for each violation (47 U.S.C. 227(b)(3)). Federal law also allows the state attorney general to bring a lawsuit on behalf of state residents (47 U.S.C. 227(g)).

In addition to the private course of action, the FTC and FCC may fine telemarketers up to $16,000 per violation.

CONNECTICUT

There are two state laws that prohibit certain robocalls. The first prohibits transmitting unsolicited business, commercial, or advertising messages through recorded telephone message devices that do not disconnect immediately when the consumer hangs up. Under this law, violators can be fined up to $500 (CGS § 16-256e).

The second prohibits devices that transmit recorded telephone messages that offer to sell goods or services. The law does not apply (1) to candidates or their solicitors (i.e., those who receive funds on behalf of their committees); (2) political or candidate committees; or (3) tax-exempt nonprofit organizations. The aggrieved party can bring a lawsuit in Superior Court to prohibit further violations. Violators are subject to a fine of $500 for each violation and costs and reasonable attorney's fees (CGS § 52-570c).

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