

U.S. Senate Committee on Commerce, Science, and Transportation
Wednesday, May 18, 2016
10:00 AM ET

Testimony of Indiana Attorney General Greg Zoeller
Re: TCPA and HANGUP Act

Thank you Mr. Chairman and members of the committee. I am Greg Zoeller, the Attorney General of Indiana. I appreciate the invitation to speak to you today.

Preventing unwanted and harassing calls to peoples' phones has been a priority for attorneys general across the country, and particularly for me. I have spent my tenure as Attorney General working to strengthen Indiana's Do Not Call laws and prosecute violators. Unwanted calls and robocalls are by far the most common complaint received by my office, with more than 14,000 complaints received last year – half of which were specifically about robocalls. My office receives new Do Not Call and robocall complaints at a rate of nearly 50 complaints per day. If this rate continues, the number of Do Not Call and robocall complaints could exceed 18,000 in 2016. The YouMail National Robocall Index estimates that 2.5 billion robocalls were made in the U.S. in the month of March alone. Sixteen of the top twenty robocallers were debt collectors.¹

It has been a long, tireless battle to help protect Hoosiers' privacy by working to stop unwanted calls that pester, intrude and all too often scam people. In Indiana, we've advanced some of the strongest telephone privacy laws and banned nearly all types of robocalls. A federal court recently upheld Indiana's ban on political robocalls to peoples' phones without their consent. We've also expanded our state's Do Not Call law to include cell phones.

Unfortunately, the federal Telephone Consumer Protection Act (TCPA) was recently altered, undermining our tough state laws. The new amendment allows debt collection robocalls to peoples' cell phones if the debt is owned or guaranteed by the United States. Prior to the amendment, the TCPA prohibited all robocalls to

¹ Source: <http://www.youmail.com/phone-lookup/robocall-index/2016/march>

cell phones. By carving out this exception, Congress is legitimizing robocalls and allowing them a free pass to harass people.

Debt collection robocalls are aggressive, relentless and often inaccurate. Of the nearly 700 debt collection complaints my office received last year, about 90 percent were because the caller was harassing the wrong person. The vast majority of robocallers are scam artists. Legitimizing some types of robocalls adds confusion and creates more opportunity for fraud, particularly as government impersonation scams rise. We had more complaints about the IRS impersonation scam this year than any other telephone privacy complaint, with nearly 1,400 complaints received this year at a rate of 10 complaints per day.

The debt collection exception particularly burdens young Americans struggling with student debt. College students and recent graduates are already buried in mountains of debt. Blasting them with robocalls, running up their cell phone bills and putting them at risk for fraud only adds insult to injury. In a letter sent earlier this year, I – along with 24 state attorneys general – called on the Committee to defend the telephone privacy rights of citizens by passing the HANGUP Act and keeping the ban on robocalls to cell phones intact.

Some sellers are urging you to create a safe harbor to protect them from the bad acts of telemarketers calling on their behalf or generating leads. This is because courts have imposed strict liability on the sellers in several cases. There is no “safe harbor” for those who hire telemarketers or buy leads to sell their products in Indiana. Our legislature clearly stated that liability extends not only to those who make calls, but also to those who cause them to be made. That is why I am urging you not to water down the TCPA by approving any amendment that lets sellers off the hook.

I would also like to stress the importance of the TCPA’s provision that allows private citizens to take action against companies and individuals that violate their telephone privacy rights. As Congress envisioned in 1991, individuals can pursue legal cases against telemarketers, faxers and debt collectors who violate the TCPA. This tradition has produced a rich body of case law, and curbed abuses by those who would otherwise ignore TCPA restrictions.

Unwanted calls are a huge annoyance to our citizens. It's frustrating when the federal government weakens state efforts aimed at protecting and serving our citizens. I urge Congress to stop allowing loopholes that legitimize robocalls and open citizens up to a barrage of unwanted or misplaced calls.

Thank you for your time. I am available for any questions.