

**STATE OF NORTH CAROLINA ATTORNEY GENERAL
ROY COOPER**

EXECUTIVE SUMMARY OF TESTIMONY

**UNITED STATES SENATE
COMMITTEE ON RULES AND ADMINISTRATION**

**Washington, D.C.
February 27, 2008**

Attorney General Cooper's testimony discusses his role, and that of other attorneys general, in the adoption and enforcement of Do-Not-Call legislation, as well as his current efforts to curb political robo-call abuses in North Carolina.

Robo-calls, including political robo-calls, harm consumers in a variety of ways. In addition to interrupting home life and family time, the calls can cut off access to emergency help and medical assistance. Robo-calls often keep phone lines tied up and cannot be disconnected until the call is concluded. Elderly and disabled residents are particularly burdened by the need to get up repeatedly to answer unwanted calls.

General Cooper's testimony cites several instances in which his office has taken enforcement action against robo-callers who have tied up the phone lines of a hospital, businesses, and individuals. At least one robo-caller was making thousands of calls to North Carolina residents every day.

Investigations conducted in connection with these enforcement actions revealed that the companies placing commercial robo-calls shifted to political robo-calls during election seasons. Employing the same technology used for commercial robo-calls, the companies made high volumes of calls in a concentrated period of time prior to elections. These political robo-calls raise the same concerns about consumer harassment and safety as any other robo-call.

The National Do-Not-Call Registry is easily one of the most popular government initiatives of all time. Policy makers must find a way to control or eliminate unwanted political robo-calls, just as they did with unwanted telemarketing calls.

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TESTIMONY

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I'm Roy Cooper, the Attorney General of North Carolina. Thank you for inviting me to speak today on the impact political robo-calls have on consumers.

As the chief law enforcement officers of our states and the enforcers of the Do-Not-Call laws, state attorneys general are on the front lines of this issue. I worked for the adoption of Do-Not-Call legislation and my office was one of the first to bring an enforcement action against a violator under the National Do-Not-Call Registry, filing four cases against the worst violators in the early days of the enforcement period.

North Carolina imposes tight restrictions on commercial robo-calls. See N.C.G.S. § 75-104. These restrictions, along with the Do-Not-Call Registry and our strong enforcement, have led to most consumers getting fewer unwanted calls. However, many North Carolinians are finding that robo-calls from telemarketers have been replaced by robo-calls from politicians.

Due to the increase in complaints about political robo-calls, I have asked our state legislature to enact a new law that would require political candidates and parties to abide by the Do-Not-Call Registry when making robo calls. See S.B. 1002. That legislation is still pending, so in the meantime I have asked the state chairs of both parties to voluntarily avoid calls to North Carolinians on the Do-Not-Call Registry, and I have reminded them of the state's existing restrictions on robo-calls.

We see a clear need for restrictions on political robo-calls. Many consumers are sick of them and believe signing up for the Do-Not-Call Registry should stop them. At best these unsolicited, automated phone calls interrupt

home life and family time. At worst, the calls can cut access to emergency help and medical assistance.

A telephone can be a lifeline for those in need of help. Robo-calls often keep a phone line tied up and cannot be disconnected until the call is concluded. Vital public safety operations like police and fire stations are vulnerable to having phone lines frozen. In one case we brought against a robo-caller, repeated calls disrupted a hospital's phone system as staff members tried in vain to disconnect the calls. *State of N.C. ex rel. Cooper v. TNT DBS Marketing, Inc.*, (Case No. 1:04 CV 00762 (M.D.N.C.)). In another case we brought, a cancer patient with a telephone lifeline device was unable to call out when robo-calls came in. *State of N.C. ex rel. Cooper v. Carpet Dryclean, Inc.*, 02 CVS 13473. In New York, a mother desperately trying to call for medical help for her sick child could not because her phone line was tied up by a robo-call. *State v. Casino Mktg. Group, Inc.*, 491 N.W.2d 882, 889 (Minn. 1992).

Robo-calls burden elderly and disabled residents. Our senior citizens tell us that it's especially difficult to get up repeatedly to answer the unwanted calls.

Robo-calls disrupt businesses. As more people work from home, the Federal Communications Commission has found that robo-calls interfere with Internet usage and tie up phone lines. 18 FCC Rcd 14014, 14103-04 (2003).

Robo-calls tie up fax machines. They can fill the entire tape of an answering machine, and they can eat up cell phone minutes. S. Rep. No. 102-178 (1991), *reprinted in* 1991 U.S.C.C.A.N. at 1970, 1973, 1978. Yes, even cell phones are not immune.

In addition to these measurable harms, robo-calls do immeasurable damage by distracting people from family meals and quiet time at home. When a telephone rings, it demands our attention. Consumers tell us they can't just ignore these calls for fear the caller is a family member in need, a work associate, a friend.

Our consumers tell us they're particularly frustrated because these messages are delivered by a machine. There's no human being on the other end of the call to interrupt, or to ask not to call. There's no way to complain. People feel frustrated and powerless. To your credit, Congress has already noted the harm of robo-calls. When considering the Telephone Consumer Protection Act, 47 U.S.C. § 227, Congress determined that automated calls were *more* of a nuisance and involved a greater invasion of privacy than a live operator, *see* S. Rep. No. 102-178 (1991), *reprinted in* 1991 U.S.C.C.A.N. 1968, 1972, and that all robo-calls are a nuisance, regardless of the message delivered, Pub. L. No. 102-243, § 2, 105 Stat. 2394, 2395 (1991); *see also* S. Rep. No. 102-178 (1991), *reprinted in* 1991 U.S.C.C.A.N. at 1970, 1973, 1978.

My office has enforced our commercial robo-call statute in a number of cases and we know how robo-call operations work.

Last year, we obtained a permanent injunction and a \$676,500 penalty against a robo-caller that placed more than 400 calls to patient rooms and emergency lines of a county hospital, preventing incoming and outgoing calls. *TNT DBS Marketing, supra*. Fortunately, no patients suffered or died as a result

of those calls, but it could have happened. The same company also tied up all 150 phone lines of an automobile parts manufacturing company in our state.

Likewise, we brought an enforcement action against a company that flooded phone lines throughout North Carolina with prerecorded pitches for television satellite systems. *State of N.C. ex rel. Cooper v. Guardian Communications, Inc.*, Case No. 05 CVS 16547 (Wake County, N.C.). It was astounding when phone records we obtained revealed thousands of calls to North Carolina residents every day. Consumers complained of repeated calls within the same week, the same day, sometimes the same hour. The number of calls into North Carolina reached the millions until we put a stop to it.

While investigating this case, we found something interesting. During election season, this company and its competitors shifted these same automated calling systems from commercial robo-calls to political robo-calls. Political robo-calls need to be reined in, just like commercial ones. Because political robo-callers use the same equipment, the same concerns regarding safety and privacy apply. The same harm hits our seniors, people with medical emergencies, and ordinary families just trying to enjoy a peaceful evening.

Political robo-calls can be even more harmful than commercial calls. Political robo-calls are made in high volume in a concentrated period of time before an election. They often target certain types of voters in certain communities, forcing some groups of voters to field the bulk of the calls. During the weeks immediately preceding the November 2006 elections, my Consumer

Protection Division fielded hundreds of consumer complaints about political robo-calls, most of which dealt with multiple calls, not just a single call.

As computer technology has advanced, automated call machines are more efficient, delivering more calls in shorter periods of time. It's possible that some people could have their phones virtually shut down at election time if something is not done.

Policy makers must find a way to control or eliminate unwanted political robo-calls, just as we did with unwanted telemarketing calls. In our battle with telemarketers during debate over the Do Not Call Registry, we told them that there are many other ways to communicate with people: newspapers, mail, internet, e-mail, television and radio to name a few. The same goes for politicians. Let's give people some peace in their own homes when they've said loud and clear they don't want those calls.

The Do-Not-Call Registry is easily one of the most popular initiatives ever undertaken by our governments. Currently, we have more than four and a half million North Carolina phone numbers on the Registry. Consumer complaints to our office about unwanted telemarketing calls have dropped by more than half since the Do-Not-Call law was passed.

I commend this Committee for examining legislation aimed at restricting political robo-calls. Thank you for allowing me to testify today and I look forward to answering any questions the Committee may have.