

Rep. Virginia Foxx Seeks to Prohibit Political Robocalls to Numbers on Do-Not-Call Registry

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Rep. Virginia Foxx (R-NC) has introduced a bill, [H.R. 740](#) (the “Robo Calls Off Phones Act” or “**Robo COP Act**”), to “stop the intrusion of political robocalls in homes across America.” Rep. Foxx stated that “politicians made sure to exempt political robo-calls from the power of the ‘Do Not Call’ registry. If these calls weren’t such a nuisance, their blatant exclusion would be laughable.” Claiming that eligible voters receive more than 20 political prerecorded voice calls per day, Rep. Foxx seeks through the bill to end the “robocall loophole” for politicians.

The Robo COP Act would direct the FTC to revise the Telemarketing Sales Rules, 16 C.F.R. 310.1 (“TSR”). Currently, the TSR prohibits only telephone solicitation calls made for telemarketing purposes, defined to include any “campaign which is conducted to induce the purchase of goods or services or a charitable contribution.”

As revised, the TSR would prohibit calls to telephone numbers listed on the Do-Not-Call registry using prerecorded messages: (i) “the purpose of which is to promote, advertise, campaign, or solicit donations, for or against any political candidate or regarding any political issue;” or (ii) that “use in the recorded message any political

candidate's name.”

Interestingly, the bill does not direct the FCC to revise regulations governing the Do-Not-Call registry that were promulgated under the Telephone Consumer Protection Act (“TCPA”). During past campaign seasons, the FCC has issued a [Public Notice](#) confirming that TCPA restrictions on calls placed to numbers on the Do-Not-Call registry are not applicable to political calls. Unlike violations of the TSR, violations of the TCPA regulations governing the Do-Not-Call registry are subject to the private right of action established under the TCPA and may lead to significant liability, as we recently discussed [here](#). On the other hand, individuals may only pursue violations of the TSR under the private right of action in the Telemarketing and Consumer Fraud Abuse Prevention Act, 15 U.S.C. § 6104, which limits private lawsuits to those that “exceed[] the sum or value of \$50,000 in actual damages for each person adversely affected by such telemarketing.”

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