



Political Robo-Calls Office of the Attorney General Guidance

There is a general prohibition against the use of automatic dialing machines and recorded message players to make unsolicited calls to North Carolinians.

North Carolina General Statutes § 75-104(b)(1) creates a limited exception if:

- The automated pre-recorded call is made by a political party or political candidate;
- No part of the call is used to make a telephone solicitation; and
- The person making the call clearly identifies:
 - The person's name;
 - Contact information; and
 - Nature of the call

When considering whether “robo-calls” fit within this exception, some factors the Office of the Attorney General will consider include:

- Who paid for the calls? Calls paid for by entities other than a political party or political candidate, even if made on behalf of the party or candidate, do not qualify for this exception.
- Whether or not the message makes a solicitation or directs a person to another communication forum where soliciting is conducted.
- The clarity and timing of the identifying information provided.

The identifying information that must be provided serves at least two purposes. First, it gives the recipient of the unsolicited call an opportunity to decide whether to continue listening or hang up. Second, it gives the recipient of the unsolicited call the ability to complain or seek redress. The Office of the Attorney General determines whether the identifying information provides these benefits, and thus is “clear,” by considering factors including:

- When during the call the information is provided. The earlier in the call, the more likely the recipient will have a clear understanding of

the identifying information and will be able to terminate the call with the statutorily required information in hand.

- Whether or not the identifying information is distinct from the remaining message.
- Whether or not the contact information:
 - Is accurate and otherwise valid;
 - Permits the call recipient to register complaints or inquiries about the unsolicited call that actually are received by the party or candidate sponsoring the call;
 - Is associated with the party or candidate that paid for the calls;
 - Does not waive rights to pursue claims or permit future contact by making the inquiry or complaint or providing information about the person making the inquiry or complaint;
 - Protects the privacy rights of any call recipient who inquires or complains about the call;
 - Allows for conduct by the party or candidate of any activity otherwise prohibited had the party or candidate initiated the contact through unsolicited means;
 - Provides a means for response to the inquiry or complaint when requested.

Although political robo-calls initiated by political parties and political candidates are not yet legally bound to avoid calling numbers on the National Do Not Call registry, compliance with North Carolinians' stated preference not to be called is encouraged. This would include, at a minimum:

- Respecting the privacy wishes of North Carolina families by not calling numbers on the National Do Not Call registry;
- Having a mechanism in place to receive and honor individual requests to stop the unsolicited calls;
- Clearly identifying in the pre-recorded message the mechanism for receiving and honoring do-not-call requests.