



July 9, 2020

U.S. SUPREME COURT SEVERES GOVERNMENT-DEBT EXCEPTION AND PRESERVES THE TCPA

On July, 6, the U.S. Supreme Court determined that the government-debt exception for robocalls made to collect a debt owed to the United States under the Telephone Consumer Protection Act violated the First Amendment because the exception was content-based, prioritizing government debt over political and other speech. *Barr v. American Assn. of Political Consultants Inc.*, 591 U.S. ____ (2020). Congress amended the TCPA in 2015 to provide the government-debt exception. The American Association of Political Consultants, among others, filed a declaratory judgment action claiming that the exception violated the First Amendment. While the exception was ruled unconstitutional, the Court did not invalidate the entire TCPA. The Court relied on the presumption of severability to exclude the narrow exception to the broader robocall restriction. The Court made clear that while the plaintiffs may not make political robocalls their speech will be judged on par with debt collection speech. The Court decided to sever the exception on a 7-2 vote while the decision to rule the exception unconstitutional was decided on a 6-3 vote. The decision affirms the judgment of the U.S. Court of Appeals for the Fourth Circuit that overturned a district court ruling siding with the government. Some Court observers had speculated that the Court might have taken the case as an opportunity to strike down the entire TCPA.

We routinely advise on TCPA compliance matters. Let us know how we can help you!

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