

**Overview of Statements of Attorney General Chris Koster  
Special Committee on Aging Panel Discussion  
June 10, 2015  
Washington, D.C.**

I take this opportunity on behalf of Missouri Attorney General Chris Koster to thank Chairwoman Senator Susan Collins and my friend and ranking committee member Senator Claire McCaskill for inviting us here this afternoon.

Missouri's No-Call Law

The Missouri Attorney General's Office has a division dedicated to responding to complaints from Missouri consumers. The Consumer Protection Division receives complaints about a wide variety of scams and fraud, such as illegal debt collecting practices, and identity theft. However, the *number one* complaint of Missourians—by a significant margin—is about unwanted and illegal telemarketing calls. In 2014 alone, our office received more than 57,000 complaints, 52,000+ of which were about telemarketing calls. The next highest category of complaint—about debt collectors—had just over 1,200 complaints.

As in most states, Missouri's No-Call Law allows individuals who do not want to be called by telemarketers to register their residential and cell phone numbers on the No-Call List.

The law prohibits telemarketers from calling those individuals who have been added to the list, with some exceptions that have been written into the law. Specifically, the No-Call Law prohibits any person or entity from making or causing to be made “telephone solicitations” to any residential subscriber in the State of Missouri who has given notice to the Attorney General of such subscriber’s objection to receiving telephone solicitations. MO.REV.STAT. § 407.1098.

There are several exceptions to the definition of “telephone solicitation,” which act as exceptions to the No-Call Law. Pursuant to § 407.1095(3)(a)-(d), the following calls are exempt from prosecution:

- (a) calls to residential subscribers with the subscriber’s “prior express invitation or permission”;
- (b) by or on behalf of any entity with whom a residential subscriber has had a business contact within the past 180 days or a current business or personal relationship;
- (c) by or on behalf of any entity organized pursuant to Chapter 501(c)(3) of the United States Internal Revenue Code, while such entity is engaged in fund-raising to support the charitable purpose for which the entity was established;
- (d) By or on behalf of any entity over which a federal agency has regulatory authority to the extent that the entity is required to

maintain a license, permit or certificate to sell or provide the merchandise being offered AND the entity is required by law or rule to develop and maintain a no-call list.

### Overview of Complaints

Every day our No-Call Unit receives complaints from people – many of whom are seniors – who have been abused or harassed by telemarketers who have no respect for the law or the privacy of those whom they victimize.

Just last month our office received a complaint from an 80-year-old woman in St. Louis. She had received a call from someone telling her that she is eligible for a back brace paid for by Medicare. The caller was able to get the woman's Medicare identification number – which is her social security number – and her date of birth. After hanging up the phone she quickly realized that something was not right with that call and she notified our office.

We also frequently receive complaints about robocalls, many of which specifically target seniors. For example, one recorded message making the rounds informs the senior consumer that he or she is eligible for a free medical alert bracelet, if the senior will simply provide their identifying information.

While some technologies, such as caller ID, help address unwanted calls, even then technologies may be exploited. For example, caller ID

spoofing happens when a caller deliberately falsifies the name and telephone number appearing on the caller ID information to disguise the caller's true identity.

One of the most frequent spoofing complaints our office receives from seniors is that their caller ID relays the letters S – S – I (“SSI”) as the caller's identity. The seniors believe the call to be from the Social Security Administration. However, upon answering the call, the consumer is immediately asked survey questions designed to elicit personal information.

The Missouri No-Call Law specifically targets spoofing. The Missouri statute provides that “[n]o person or entity who makes a telephone solicitation to a residential subscriber in this state shall knowingly use any method to block or otherwise circumvent any subscriber's use of a caller identification service.” Mo.Rev.Stat. § 407.1104.2

### Litigation

Our office is fighting back in the courtroom. In 2014, we obtained more than \$600,000 in judgments penalizing telemarketers for their illegal conduct and filed 20 cases against telemarketers across the United States that violated Missouri law. Significantly, our office obtained court orders permanently prohibiting 28 telemarketers from ever placing another call into the State of Missouri. But they are clever and they are relentless.

Unfortunately, it often becomes as frustrating as the old arcade game “whack

a mole.” We shut them down and they pop up again in other states or with different identities. Many have resorted to setting up shop and making calls from overseas locations, effectively nullifying our ability to obtain enforcement jurisdiction over them.

### Looking Forward

This is a battle, however, which must be fought on many fronts. We need the help of private industry, including the telephone service providers, to create solutions to permanently stop unwanted telemarketing calls.

Already technologies exist to reduce the number of robocalls to consumers’ phones. These “call blockers” filter incoming telemarketing calls before they reach consumers’ phones, thus dramatically reducing the number of unwanted calls a person receives. Yet, the major phone carriers have resisted allowing their customers to have access to these call blocking technologies, claiming that federal law prohibits it.

To quote from a U.S. Telecom representative at a July 10, 2013 Senate Subcommittee Consumer Protection Hearing:

“The Current legal framework simply does not allow [phone companies] to decide for the consumer which calls should be allowed to go through and which should be blocked.”

If so, then that should be changed. If that is the only thing stopping them, then by all means, we should clarify the law and give them such power.

That is why last fall, Missouri Attorney General Chris Koster and Indiana Attorney General Greg Zoeller, joined by 37 other attorneys general, penned and submitted a letter to the Federal Communications Commission urging the Commission to allow phone companies to utilize call-blocking technologies that would better protect consumers from unwanted calls and scams. That letter is attached to my written testimony as exhibit A.

We are thankful and encouraged by the fact that FCC Chairman Wheeler agrees. In response to the letter, Chairman Wheeler submitted a proposal to protect Americans from unwanted robocalls, spam text messages, and telemarketing calls. It looks like the FCC will, in fact, provide clarity on the issue based on Chairman Wheeler's request. The proposal will be voted on at the Commission's Open Meeting on June 18, 2015. I have also attached to my testimony as exhibit B a copy of a news release regarding Chairman Wheeler's response to Attorney General Koster's letter. We cannot emphasize enough the importance of what the FCC is hopefully about to do. It is right for our citizens. It is especially right for our elderly, which is what this commission is all about. We urge the Commission to pass the proposal.

Our office is encouraged by the progress we have made, but we recognize the continuing challenges that need to be addressed. Consumers

have made it clear that they are fed up with the number of unwanted telemarketing calls they receive. We must continue to research and employ newer technologies to help in our efforts to keep up with the illegal robocallers. The telephone carriers are in the unique position to help their own customers block these calls. Once the major telephone carriers are on board, we can truly make a difference in the lives of consumers by giving THEM the power to stop illegal telemarketing phone calls at their inception.

While we do not share the industry's interpretation of the existing rule of law, to the extent that there is any ambiguity regarding phone company's legal authority to honor its customer's request that they block these unwanted calls before they arrive at their personal telephone, we would request clarity on the issue.

Thank you again for the opportunity to briefly testify before you this afternoon and for your time and attention on this important matter.