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## Amicus Briefs Supporting Respondent filed in SCOTUS TCPA Case Ahead of April Argument

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Nine amicus curiae briefs were filed in the Supreme Court case regarding the Telephone Consumer Protection Act (TCPA) on April 1. Facebook Inc., the United States Chamber of Commerce, the Institute for Free Speech, the Institute for Justice, the Cato Institute, Midland Credit Management, the Retail Energy Supply Association, Portfolio Recovery Associates, and healthcare companies all filed briefs in support of the Respondents, the American Association of Political Consultants. The American Association of Political Consultants filed their brief last week saying the TCPA should be eliminated completely.

The case concerns the constitutionality of a statute which limits calls and text messages made through automatic dialing systems and specifically addresses the exception for government debt collection or other government communications. The briefs filed by debt collectors, healthcare companies, and utility companies argue that unsolicited communication is important to their purposes and the TCPA is hindering their work or causing them to risk legal action.

Facebook argued in their amicus curiae brief that the TCPA's prohibition on automatic telephone dialing system (ATDS) calls and messages is unconstitutional and suggested it be struck down, specifying that it should not be expanded to prohibit debt collection calls. They cited an interest in the case because they have been sued for contacting using an automated system after users have received security messages saying their account was accessed from a new device. "If, as here, the speech-abridging prohibition is unconstitutional, the only appropriate remedy is to invalidate that prohibition, not to broaden it by excising a speech-permitting exception," Facebook's brief says. It argues the prohibition is too broad and that the court should show the prohibition's invalidity predates the addition of the government debt collection exception.

The US Chamber of Commerce argued in their brief that the "meritless" ATDS litigation "plagues the Federal Courts." They said it creates uncertainty and chaos and is random and the court should invalidate the prohibition if it concludes that the TCPA is unconstitutional. "With shocking frequency, businesses find themselves sued under this once-obscure provision because they used ordinary equipment to send ordinary calls or texts to their customers. These communications provide helpful information to consumers, such as security alerts, shipping notifications, and other important notices," the brief says. They argue that the statute was in effect for 24 years before the exemption but only began to pinch government debt collectors after the FCC tried to update it with the rise of cell phones. The Chamber of Commerce argues that without the prohibition unwarranted calls will not be a significant problem, they say the provision targets random, sequential dialing not computer-assisted calling and that eliminating the TCPA will allow Congress to enact legislation that better targets the issue.

In early March, eight additional Amicus Briefs were filed in the case supporting the Petitioners or neither party, including those from members of congress, the state of Indiana and Verizon each of which supported the TCPA, Verizon specifically supporting the exception for debt collection but did not officially support either party.