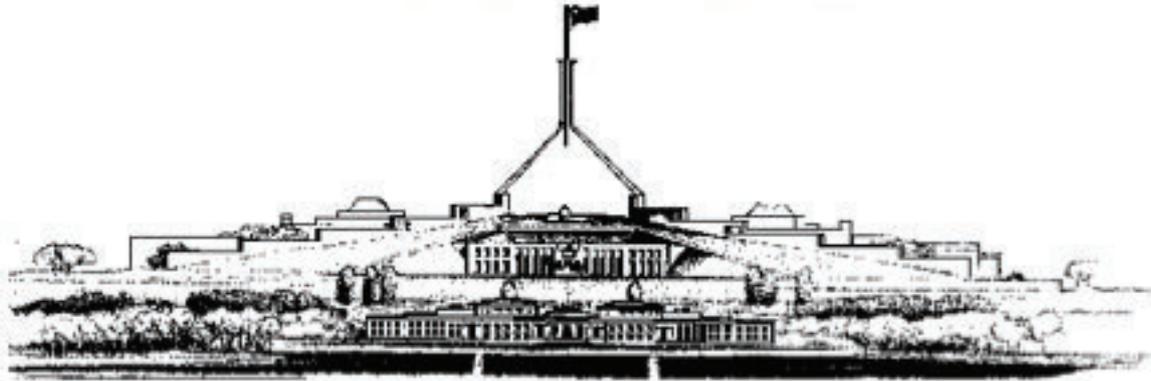




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**THE SENATE**

**PROOF**

**BILLS**

**Telecommunications Legislation Amendment  
(Unsolicited Communications) Bill 2019**

**Second Reading**

**SPEECH**

**Monday, 25 November 2019**

BY AUTHORITY OF THE SENATE

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## SPEECH

<b>Date</b> Monday, 25 November 2019	<b>Source</b> Senate
<b>Page</b> 6	<b>Proof</b> Yes
<b>Questioner</b>	<b>Responder</b>
<b>Speaker</b> Kitching, Sen Kimberley	<b>Question No.</b>

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**Senator KITCHING** (Victoria) (10:36): I rise to speak on the Telecommunications Legislation Amendment (Unsolicited Communications) Bill 2019. As outlined in the explanatory memorandum, the primary purpose of this bill is to provide consumers with more control over the receiving of unsolicited communications. The bill proposes to achieve this by amending exemptions in which provided entities, such as political parties and charities, have greater flexibility on unsolicited communications.

This bill before the Senate proposes to make several changes. They are (1) to amend the Do Not Call Register Act 2006 to enable consumers who register on the Do Not Call Register to opt out of receiving phone calls from charities; (2) to amend the Spam Act 2003 to require political parties to provide an 'unsubscribe' function for all unsolicited electronic communications containing political content; (3) to amend the Commonwealth Electoral Act 1918 to require that voice calls communicating in an electoral matter to a person identify the use of any actors at the beginning of the call; and (4) to amend the Telecommunications Act 1997 to make other consequential amendments.

In reference to these proposed changes, it is important to state at the outset that Labor acknowledges Senator Griff has brought these proposals forward in good faith. In doing so, Senator Griff is seeking to address issues of legitimate concern to many members of the community. The actions of Clive Palmer in the run-up to and throughout the 2019 election are a clear representation for many of us of Senator Griff's concerns. Over the space of several months, we saw a relentless campaign by Clive Palmer and his United Australia Party in unleashing a barrage of unsolicited text messages on voters, many of which contained false claims. This operation contained geographically targeted slogans and campaign material, with the ABC reporting that as of January 2019 more than 5.6 million Australian phones had received text messages from Clive Palmer and the UAP. Furthermore, the scale and frequency of the operation led to widespread community concern, which prompted over 3,000 complaints from consumers to the Australian Communications and Media Authority, the regulator overseeing spam and unsolicited communications.

Just so that we're clear: the Australian Communications and Media Authority is responsible for administering the Do Not Call Register as well as enforcing the Do Not Call Register Act 2006, the related Telecommunications (Telemarketing and Research Calls) Industry Standard 2017 and the Fax Marketing Industry Standard 2011. There are currently 10.9 million numbers on the Do Not Call Register, including 5.6 million fixed-line numbers, 4.9 million mobile numbers, and 430,000 fax numbers. The registration of mobile numbers is now the fastest-growing registration type. Australians are able to add their fixed-line or mobile telephone numbers to the Do Not Call Register provided those numbers are used primarily for private or domestic purposes. Any number used exclusively as a personal or a business fax number can also be registered.

These amendments seek to provide a method of addressing specific calls from specific entities—for example, calls from political parties, from members of parliament and from political candidates soliciting donations or offering goods and services; calls from educational institutions, where the recipient is or was a student of that institution, offering goods or services; calls from registered charities soliciting donations or offering goods or services; opinion polling; and research calls. In responding to the concerns of Australians, the Australian Communications and Media Authority noted that, under current laws, political parties are free to send campaign material as long as that material is not commercial in nature. As an Australian Communications and Media Authority spokesman said:

Calls, emails or SMS that are not commercial—that is they do not have a commercial purpose—are generally allowed and not required to comply with the obligations under the Do Not Call Register Act 2006 and the Spam Act 2003. Communications about political matters do not usually include a commercial element.

Whilst the conduct of Clive Palmer and the UAP goes to issues much broader than this bill, it is well established that Clive Palmer was willing to spend whatever was necessary in the last election, particularly to undermine

the campaign of the Australian Labor Party. When his advertising campaign began in 2018, the advertisements attacked both the Liberal Party and the Australian Labor Party. But, following a preference deal with the coalition in January 2019, Clive Palmer agreed that, in the final period of the election campaign, he would switch his attack exclusively towards Labor. Both sides should be concerned about the principle of this. The ability of a high-wealth individual to leverage such legislative exemptions in relation to electronic messaging and then use this to wage what was effectively a misinformation campaign is obviously an issue of significant concern. So there are clearly some broader issues here that require consideration.

On 25 September 2019, the Australian Communications and Media Authority also issued a formal warning to the South Australian division of the Liberal Party for making robocalls during prohibited calling times in the early hours of the morning, well before what is permitted by the telemarketing standard. I refer to an ABC article quoting a caller who phoned in on ABC Radio Adelaide. Her name is Karen. She says:

'My husband's mobile went off so he raced out of bed and sure enough, it was a robocall,' said ABC Radio Adelaide listener Karen, who was disturbed from her slumber just after 6:30am. 'Anyway, I was dozing back to sleep and then my mobile went off so we scored it twice this morning and I actually did the survey. 'Normally I wouldn't do it but I was so angry this morning that I decided to give Mr Marshall and the Liberal Party a bad rating.'

We should all heed the caveat against phoning voters early in the morning.

With conduct and behaviour such as this, which ACMA, the Australian Communications and Media Authority, has to police, it is no surprise that many Australians are not impressed and are, indeed, quite frustrated with these occurrences and the manner of their intrusiveness. The constant inflow of illegal calls from overseas scammers is also ever present in the lives of Australians, particularly older Australians, who spend a greater proportion of their time at home. Senator Fawcett in his contribution alluded to these phone calls and the disturbances and sense of anxiety they can create in Australians.

Who doesn't have countless examples of getting ready to sit down for dinner, only to have the landline ring, and it is someone from somewhere selling unwanted goods or services, or in fact not even being specific about what they're selling. This is especially unsettling for many families for whom the landline has become a tool seldom used—usually only to communicate with loved ones abroad and at times of emergency. You can imagine you are expecting someone to phone you only in those instances and the phone keeps going off because it is a robocall or someone from overseas running a scam—of which there are so many.

Clearly, the accumulation of these different issues, combined with the intensity of the election campaign, has exhausted the patience of many. In a world where concerns about privacy and the widespread sharing of personal information receive almost daily attention, supercharged by the rapid proliferation of digital platforms and social media, it is important that the parliament remains responsive to such developments and concerns. We shouldn't be always playing catch-up when technology improves.

The Do Not Call Register is one tool relied on by many Australians to reduce the amount of unsolicited communications they receive. I remind the chamber that there are currently 10.9 million numbers that have been registered on the Do Not Call Register. That includes 5.6 million fixed line numbers, 4.9 million mobile numbers, and 430,000 fax numbers. That is an incredible number of phone numbers and fax numbers where Australians have said: 'Enough is enough. I don't want you contacting me. I want to have control over who phones me on my communication devices.'

The register is, in effect, a secure database where individuals can register their Australian telephone number. Once registered, a number will stay on the register indefinitely. Organisations such as telemarketers then need to do what is called 'washing'. They need to wash their calling lists against the register to ensure those numbers are not contacted. It is important to note, however, that when the Do Not Call Register Act was established in 2006, it contained exemptions for charities, religious organisations, educational institutions and political parties. These types of callers were permitted to bypass the register but they are still required to comply with the Telecommunications (Telemarketing and Research Calls) Industry Standard 2017, which stipulates: when a telemarketer or researcher can call you, what information they have to give you at the start of the call, the information they have to give you if you request it and that they must terminate the call if you ask. I think we all know that the last one might be more honoured in the breach, perhaps. These exemptions are important because,

for charitable bodies to continue to provide valuable services to the community, they rely on having various options to conduct fundraising activities.

Nearly half the major charities are members of Fundraising Institute Australia. This is an organisation that actually has its own code of conduct and claims to set a higher bar than the industry standard. It will be important to understand what the impacts of any proposal for change on charities will be and how this will impact on their ability to service the community.

Political parties and candidates can provide voters with information on how to inform their voting behaviour. Electronic communication is one of the key channels and, again, the previous contributors to this debate, Senator Griff and Senator Fawcett, have noted that, obviously, there are many ways in which to contact a voter. It is certainly fair to say that this is, at times, intrusive and disruptive, but that is the overall rough and tumble of democracy itself. Part of our democratic and political system, of course, is the art of persuasion. Obviously, one needs to communicate with voters in order to be able to persuade them on a policy idea, for example.

Clearly, the proposals outlined by Senator Griff deserve attention and consideration. For these reasons, Labor considers it would be appropriate for the Joint Standing Committee on Electoral Matters to consider and report on this bill, and we will be circulating a second reading amendment to this effect.

On 29 July 2019 the Minister for Finance asked the committee to inquire into and report on all aspects of the conduct of the 2019 federal election. This inquiry has commenced. It's invited submissions, with the first public hearing scheduled for 6 December 2019.

On the topic of this bill, I also want to touch on the broader issue of scam calls. Scam calls are the largest source of frustration and financial harm when it comes to unsolicited calls. The headline figures are well publicised. In April this year the ACCC revealed that the total combined losses reported to Scamwatch and other agencies exceeded \$489 million for 2018. I'll just say that again: in April this year the ACCC revealed that the total combined losses reported to Scamwatch and other agencies exceeded \$489 million for 2018. That is a lot of money. Of course, we know from stories in the media that often the most vulnerable in our society are targeted. This is an increase of \$149 million over what was reported for 2017. There were 177,000 scam calls reported to Scamwatch in 2018. This is up from a figure of 91,000 in 2014. No wonder seven in 10 Australians do not believe enough is being done to protect them.

The growth in scams and the unsolicited telephone calls which often precede them is an assault on the integrity of our numbering and communications system. Furthermore, this illegal practice is an incursion on the privacy every Australian has the right to enjoy in their own home. This has been recognised around the world, and different jurisdictions are trying out their own ideas. The United States is implementing technical standards to verify caller ID integrity to improve safeguards against illegal number spoofing—that's where people just run through lists and lists of phone numbers, hoping that they're going to get a hit.

In the United Kingdom, British Telecom introduced Call Protect, a free opt-in service which combines network intelligence and user feedback to prevent calls from numbers on a scam blacklist from reaching households. This service was reported to reduce the volume of nuisance calls by 65 per cent, with over two million UK households signing up in the first three months. Again, that reduced nuisance calls by 65 per cent, so it's obviously been a very successful system. The UK has also trialled handset technology in the homes of some of the most vulnerable people across the UK. A key group who are disproportionately affected here are dementia sufferers, who have been identified by doctors as being at risk from nuisance callers. Now, isn't that a terrible thing? People suffering from dementia are already very vulnerable, and they are disproportionately affected and targeted. In New Zealand, the telecommunications industry has established a scam prevention code. So there are clearly some options available—each of which has its own advantages and difficulties—that have worked in their respective jurisdictions to cut down the number of scam calls people are receiving.

What perplexes many Australians is that on the one hand they see the government acting forcefully to rush through poorly drafted encryption legislation, and on the other hand, when we have nearly half a billion dollars being robbed from citizens every year and our elderly and vulnerable parents being harassed in their homes nearly every day, the same government is not acting with the same level of urgency. This will come into focus this week in this bill, and again Labor acknowledges Senator Griff's work on this. But we need to look at the prevalence of scam callers and the constant nuisance and potential misery this brings to the community, which is of utmost importance to many Australians and especially those in vulnerable groups. Despite being in power for over six

years, the Liberals are only just beginning to put together a plan, after repeated warnings the problem was getting worse. We look forward to the Australian Communications and Media Authority outlining in December how it plans to tackle the issue as part of its report on the Scam Technology Project.

I move the second reading amendment standing in my name:

At the end of the motion, add "and:

- (a) the bill be referred to the Joint Standing Committee on Electoral Matters for inquiry and report; and
- (b) further consideration of the bill be made an order of the day for the first sitting day after the committee has presented its report".