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OP-ED CONTRIBUTOR

### Call Me, Pay Fee

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WITH the fall elections looming, you may be reconsidering your relationship with your telephone. In states with intensely fought races during the primary season, phone subscribers have complained of receiving as many as 20 election-related calls — mostly automated

“robocalls” — per week. These entreaties add to the already heavy load of unwanted commercial calls for everything from credit cards to weight-loss programs.

Enabling these calls are vast industries devoted to collecting personal data about us and selling it to parties seeking to commandeer our attention, our dollars or our votes. Just as fortunes are made by “renting the eyeballs” of Internet users, entrepreneurs prosper by leasing eardrums.

Officially, some limits are in place, most notably the [National Do Not Call Registry](#), created by Congress in 2003. By one count, nearly three-quarters of American phone subscribers have enrolled on this list. But the exceptions and loopholes written into this legislation are revealing. Political candidates and organizations are exempted. So are nonprofit organizations, those conducting surveys or polls, and companies with whom the person called has an “established business relationship” — all notions inviting elastic interpretation.

Worse, determined robocallers now overwhelm even these flexible limits, cheaply placing millions of calls from beyond American borders using decentralizing technologies like voice-over-Internet protocol. Complaints to the Federal Trade Commission bring no relief.

There is no reason to tolerate these incivilities. A simple, low-tech regulatory change could shift the advantage decisively back in the direction of privacy.

All telephone service providers should be required to offer every subscriber the option of accepting only “bonded” calls. To complete a call to a subscriber electing this option, the caller would have to show willingness and ability to compensate the recipient — should the latter designate the call a nuisance. Before calls to these numbers could be completed, a message would state the amount of the potential charge. A few seconds after the connection is established, the recipient would have the option of terminating the call and charging the caller by pressing a keypad button.

Phone customers choosing this option could specify the amount that callers would place at risk. And they could maintain lists of favored callers, from whom calls would be accepted

without risk of penalty. These might include relatives, friends, organizations from which communications are particularly welcome or parties from whom a callback has been specifically requested.

Technologies and management practices to support such an option already exist. The pay-per-call 900 number system has long been available to businesses seeking to charge callers for their time. This measure would extend the same benefits of communication technology to ordinary citizens and consumers.

As with other privacy-invading practices, sponsors of automated mass phone calling will predictably defend junk calling as an essential exercise of First Amendment rights. We live in an information society, they'll quickly remind us. Restricting the free flow of ideas could jeopardize our freedom and prosperity. This line of reasoning has won legal support right up to the Supreme Court — witness the recent resurgence of “corporate free speech” doctrines.

Such arguments would be compelling in a Jeffersonian democracy, where parties to the communications enjoyed something like parity of position. But the social and technological realities of the 21st century have left that world behind. Ordinary people today confront well-financed, sophisticated organizations capable of carpet-bombing the public with insistent one-way exhortations. Relations between these callers and their targets are utterly unequal. The victims don't have a chance in a million of reaching the harassing callers to share a piece of their indignant minds. The courts have gone back and forth over history balancing rights of free expression against those of privacy. But ultimately the law does recognize a distinction between communication and harassment.

Far from constricting the information flows that are essential to economic dynamism and well-informed civic discourse, an innovation like this would raise the quality of telephone communications, while reducing their sheer numbers. No one, of course, would be compelled to select this feature for his or her phone service. But those who did would create incentives for callers to make only calls likely to win the appreciation, or at least the respect, of the recipient. Institutional callers that now offend thousands to obtain a positive response from a tiny minority would be obliged to weigh the effects of their entreaties on all those whose attention they commandeer.

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