We’ve been keeping a watchful eye for any movement out of Congress that might start the push toward TCPA 2.0.

As I noted within days of the big Facebook ruling, it is unlikely Congress would move forward swiftly with an overhaul of the TCPA, mostly because no one knows for sure what Facebook really means.

But anything Congress does do in the future MUST (IMO) abandon its focus on the technology used to make calls and focus on the content of calls it wishes to regulate-consistent with First Amendment principles.

Well, today we received the first news of Congressional movement on TCPA issues post-Facebook although we do not yet have a copy of the draft bill.

Here’s what we’ve heard:

A bill led by Sen. Catherine Cortez Masto (D-Nev.) that is not yet publicly available would apparently increase the penalties for “robocallers,”—whatever that means—and
include prison time.

The bill has another terrible name— the “Deter Obnoxious, Nefarious, and Outrageous Telephone (DO NOT) Call Act.”

*yack*

If passed, the bill would reportedly:

- Clarify that violations of the Telephone Consumer Protection Act are punishable by prison terms of up to one year.
- Aggravated violations — such as more than 100,000 violations in a day or calls that lead to a loss of $5,000 in a year — can be punished by three years in prison.
- Increase maximum fines for falsifying caller ID from $10,000 to $20,000.
- Cosponsors are expected to include Senate Majority Leader Chuck Schumer (D-N.Y.), and Sens. Amy Klobuchar (D-Minn.), Kirsten Gillibrand (D-N.Y.) and Maggie Hassan (D-N.H.)

While nothing in this synopsis talks about expanding the scope of the statute, a statement by Masto hints at a possible expansion of the TCPA’s ATDS definition:

“New technology is allowing robocallers to place more calls than ever, and my legislation would toughen the consequences for those who profit while preying on vulnerable Nevadans,” Cortez Masto said in a statement.

New technology? I don’t like the sound of that.

Look, if Congress is focused on scam calls I 100% support prison time. Frankly 1-3 years isn’t nearly enough.

But if Congress is talking about prison time for legitimate callers who just happen to be using technology that the bad guys also use, then this is indeed an Obnoxious, Nefarious, and Outrageous act.

More to come.

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