

ATTENTION ALL VISUAL LEARNERS: Breakdown of New Bill Introduced to Congress that would Amend TCPA

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Hey all, Count Kay here to provide a follow up on the Czar's post this morning. To briefly recap, a bill called the Robotex Spam Prevention Act was introduced to Congress which, if passed, would expand the TCPA to cover text messages, remove the phrase "using a random or sequential number generator" from the ATDS definitions, and provide a safeharbor for recycled number calls but only for callers using the FCC's wrong number database. I know it's difficult to picture the potential impact of this bill, but leave your worries at the door – I'm a visual learner so naturally I've already redlined the proposed amendments for like-minded folks (see below). As always, if you have any questions about these proposed changes or just want to talk, please reach out. Until next time TCPA World!

Robotex Spam Prevention Act – Proposed Amendments to TCPA

(a) DEFINITIONS.—As used in this section—

(1) The term "automatic telephone dialing system" means equipment which has the capacity—

(A) to store or produce telephone numbers to be called ~~using a random or sequential number generator~~ **or sent a text message**; and

(B) ~~to dial such numbers~~ **automatically dial or send a text message to such numbers.**

(5) **The term 'text message' has the meaning given such term in subsection (e)(8) (see definition below).**

(b) RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.—

(1) PROHIBITIONS.—It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—

(A) ~~to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party)~~ **any call or send any text message (other than a call made or text message sent for emergency purposes or with the prior express consent of the recipient of such call or text message)** using any automatic telephone dialing system or an artificial or

prerecorded voice—

(i) to any emergency telephone line (including any “911” line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency);

(ii) to the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the ~~called party is charged for the call, unless such call is made solely to collect a debt owed to or guaranteed by the United States~~ **recipient of such call or text message is charged for receiving such call or text message;**

(B) to initiate any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes, ~~is made solely pursuant to the collection of a debt owed to or guaranteed by the United States~~, or is exempted by rule or order by the Commission under paragraph (2)(B).

(5) SAFE HARBOR FOR REASSIGNED NUMBERS. –

(A) IN GENERAL. – It shall not be a violation of the prohibition in paragraph (1)(A) for a person, using an automatic telephone dialing system or an artificial or prerecorded voice, to make a call or send a text message to a telephone number without the prior express consent of the subscriber assigned such telephone number if such person obtained express consent to make such a call or send such text message to such number from a subscriber assigned such number on the date on which such express consent was obtained.

(B) EXCEPTION. – Subparagraph (A) shall not apply unless the person making such call or sending such text, bearing the burden of proof, demonstrates that –

(i) prior to making such call, such person queried the database maintained by the Commission under subparagraph (C) to determine whether such number was permanently disconnected after the date on which prior express consent was obtained from a subscriber previously assigned such number, and received a response indicating such number was not permanently disconnected after such date; and

(ii) if such person had not received such response, such person would not have made such call or sent such text message to such number.

(C) REASSIGNED TELEPHONE NUMBER DATABASE. – The Commission shall maintain a database which persons may query for the purpose of determining whether a telephone number was permanently disconnected after the date on which prior express consent was obtained from a subscriber assigned such number.

(e)(8)(C) TEXT MESSAGE

The “term text message” —

(i) means any service that is interconnected with the public switched telephone network and that furnishes voice communications to an end user using resources from the North American Numbering Plan or any successor to the North American Numbering Plan adopted by the Commission under section 251(e)(1) of this title; and

(ii) includes transmissions from a telephone facsimile machine, computer, or other device to a telephone facsimile machine.

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