

September 15, 2016

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Upton:

The undersigned trade associations and business groups, representing hundreds of thousands of U.S. companies and organizations from across the U.S. economy, commend the Committee for scheduling a hearing, entitled “Modernizing the Telephone Consumer Protection Act,” and hope the Communications and Technology Subcommittee will take a comprehensive look at the outdated statute¹.

When the Telephone Consumer Protection Act (TCPA) was written 25 years ago, it was well-intentioned legislation serving the important purpose of protecting the privacy of Americans against abusive telemarketing calls. Since then, the TCPA has become an engine for abusive class action litigation—hitting businesses both large and small. The numbers are staggering. Last year alone, 3,710 TCPA lawsuits were filed in federal court, and between 2010 and 2015, the amount of TCPA litigation filed in federal court increased by 940%.²

While the September 1st letter³ from Representatives Frank Pallone, Anna Eshoo, and Jan Schakowsky points to the extensive amount of TCPA-related complaints received by the FCC and FTC, it fails to mention the companies being targeted by abusive litigation. Similarly, it fails to address the two separate issues at play: (1) abusive robocalls; and (2) companies entrapped by an outdated statute that was not meant to encompass the calls or text messages they are attempting to place to their consumers (such as informational calls regarding prescription reminders, low balance alerts, etc.). These issues are distinct, yet often convoluted.

On May 25th, the Senate Commerce, Science and Transportation Committee held a holistic hearing on the TCPA, entitled “The Telephone Consumer Protection Act at 25: Effects on Consumers and Business.” The hearing served as an important milestone of recognizing these two separate issues under the outdated TCPA, which Chairman John Thune made a point of noting.

Like the recent Senate hearing, we urge this Committee to take a broader look at the TCPA and its current challenges. Consumers should be afforded protection against abusive

¹ Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243 (hereinafter TCPA).

² See <http://webrecon.com/out-like-a-lion-debt-collection-litigation-cfpb-complaint-statistics-dec-2015-year-in-review/>.

³ Letter from The Honorable Frank Pallone, Jr., et. al., to The Honorable Fred Upton (Sept. 1, 2016).

robocalls, and businesses should not be faced with potentially abusive litigation each time they pick up the phone or send a text to their consumers.

Sincerely,

American Association of Healthcare Administrative Management (AAHAM)
American Bankers Association
American Financial Services Association
American Insurance Association
Business Council of Alabama
Coalition of Higher Education Assistance Organizations (COHEAO)
Consumer Bankers Association
Electronic Transactions Association
Florida Justice Reform Institute: Civil Justice Reform
Kentucky Chamber of Commerce
Lawsuit Reform Alliance of New York (LRANY)
Michigan Chamber of Commerce
Missouri Chamber of Commerce and Industry
National Association of Chain Drug Stores
National Restaurant Association
News Media Alliance
NJ Civil Justice Institute
PA Chamber of Business and Industry
Professional Association for Customer Engagement (PACE)
Retail Industry Leaders Association (RILA)
SLSA Private Loan Committee
South Carolina Civil Justice Coalition
State Chamber of Oklahoma
Student Loan Servicing Alliance (SLSA)
Tennessee Chamber of Commerce & Industry
U.S. Chamber of Commerce
U.S. Chamber Institute for Legal Reform

cc: Congressman Frank Pallone, Jr., Ranking Member
Congresswoman Anna Eshoo, Ranking Member, Subcommittee on Communications and Technology
Congresswoman Jan Schakowsky, Ranking Member, Subcommittee on Commerce, Manufacturing, and Trade
Energy and Commerce Committee, Communications and Technology Subcommittee