

March 8, 2017

The Honorable Greg Walden
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Walden and Ranking Member Pallone:

This week, the full House of Representatives is scheduled to vote on H.R. 985, the Fairness in Class Action Litigation Act of 2017 (FICALA). We write to express our support for H.R. 985, as it addresses many problems associated with overbroad and procedurally abusive class actions. In particular, several provisions of H.R. 985 will assist in providing partial relief for a particularly problematic area of class action litigation—the Telephone Consumer Protection Act (TCPA).

As you are aware, the TCPA has moved far beyond its original intent, leading to a landslide of litigation against businesses, large and small, in nearly every consumer-facing sector of the economy. In fact, the number of TCPA lawsuits filed around the country last year hit an all-time high at 4,860—with a 1,272 percent increase in TCPA case filings since 2010. Yet the individuals allegedly harmed by receiving the communications are not the same individuals benefiting from TCPA litigation. A 2014 study found that, on average, consumers received only \$4.12 from a TCPA settlement, while the plaintiffs' attorneys received \$2.4 million.

FICALA would help address problematic TCPA litigation in several ways. H.R. 985 would ensure class members can be identified and plaintiff's lawyers would have to demonstrate payment was actually delivered to a substantial majority of the class. Additionally, FICALA would help courts and eliminate the problems with overbroad classes that include persons who sustained injuries different from the representative plaintiff by establishing a consistent "type and scope of injury" rule for class membership.

While FICALA is a step in the right direction to address several problems with the TCPA, it is not enough. After 26 years of advancements in technology, the TCPA is in desperate need of modernization. Businesses need clarification and reasonable standards to reach their consumers, not the threat of a million or billion dollar class action lawsuit each time they pick up the phone or send a text message.

We urge you to vote in favor of H.R. 985 and to oppose any weakening or hostile amendments, but additionally ask the Committee to address the numerous other problems businesses are facing as a result of the TCPA.

Sincerely,

ACA International

American Association of Healthcare Administrative Management
American Financial Services Association
American Insurance Association
Consumer Mortgage Coalition
Electronic Transactions Association
Financial Services Roundtable
National Association of Chain Drug Stores
National Association of Mutual Insurance Companies
News Media Alliance
Professional Association for Customer Engagement
Retail Industry Leaders Association
U.S. Chamber of Commerce
U.S. Chamber Institute for Legal Reform

cc: Members of the Committee on Energy and Commerce