

July 16, 2019

The Honorable Frank Pallone  
Chairman  
Committee on Energy & Commerce  
2125 Rayburn House Office Building  
Washington, D.C. 20510

The Honorable Greg Walden  
Ranking Member  
Committee on Energy & Commerce  
2125 Rayburn House Office Building  
Washington, D.C. 20510

Dear Chairman Pallone and Ranking Member Walden:

On behalf of the Consumer Bankers Association (CBA) I write to share our views on H.R. 3375, The Stopping Bad Robocalls Act. CBA is the voice of the retail banking industry whose products and services provide access to credit for consumers and small businesses. Our members operate in all 50 states, serve more than 150 million Americans and collectively hold two-thirds of the country's total depository assets.

Our members comply with the Telephone Consumer Protection Act (TCPA) as they work to ensure safe and secure financial futures for their customers. As providers of financial services, banks regularly communicate with their customers. Any limitation placed on a financial institutions ability to keep a customer informed on how to properly manage their account when anything negative or positive were to happen could have significant impact on their financial wellbeing.

CBA's primary concern remains that the scope of an "Automatic Telephone Dialing System" (ATDS) in its current form is overly-broad and ties many modern technologies into the realm of TCPA that were not originally intended when the TCPA was enacted. The current framework was established under the Federal Communications Commission's (FCC) 2015 Omnibus Order, and currently can be read so expansively as to put consumer cell phones in potential violation of the TCPA.

We appreciate the Stopping Bad Robocalls Act aim to address the overly-expansive definition of ATDS, however, we believe the bill could allow the FCC to face pressure that will keep the definition overly-broad as it applies to certain dialing technologies due to language in the bill. The legislation would be improved if language is included that would require the FCC to adopt a more limited definition of ATDS to better fit the intention of the TCPA as well as protect vital, consumer-necessary communications.

Additionally, the Stopping Bad Robocalls Act defines "called party" as "the current subscriber or customary user of the telephone number to which the call is made, determined at the time when the call is made." While this definition considers the reassigned numbers database the FCC is establishing, it effectively requires callers to use the reassigned numbers database or face TCPA violations for errors. Instead, the Act should encourage use of the reassigned numbers database by providing a safe-harbor for callers that scrub their contact lists against the database when the

wrong customer is contacted inadvertently. This would not require use of the database while ensuring callers have a method to ensure they only contact their customers who have consented to communications.

Finally, Section 8 of the Stopping Bad Robocalls Act addresses the recent FCC Declaratory Ruling allowing service providers to automatically opt-in their customers to call blocking technologies. While we are encouraged by the language directing the FCC to ensure telephone companies call-blocking services “are provided with transparency and effective redress options for both (i) consumers; and (ii) callers”, consumers will need more notice that calls are being automatically blocked by service providers on their behalf. Including language that notifies both the caller and the call recipient that a call has been blocked will do much to ensure that vital communications between legitimate callers and their customers are not inadvertently blocked.

CBA stands ready to work with Congress and the FCC to ensure bad actors and fraudulent robocallers are stopped, and we appreciate the opportunity to submit our views.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Hunt". The signature is fluid and cursive, with the first name "Richard" being more prominent than the last name "Hunt".

Richard Hunt  
President and CEO  
Consumer Bankers Association