



STATE OF INDIANA

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**GREG ZOELLER**  
INDIANA ATTORNEY GENERAL

Hon. Greg Walden  
Chairman  
Communications and Technology Subcommittee of the  
House Energy and Commerce Committee

Re: September 22, 2016 Hearing on  
Modernizing the Telephone Consumer Protection Act

Dear Chairman Walden and members of the Subcommittee:

Preventing unwanted and harassing calls to peoples' phones has been a priority for attorneys general across the country, and particularly for me. I have spent my tenure as Attorney General working to strengthen Indiana's Do Not Call laws and prosecute violators. Unwanted calls and robocalls are by far the most common complaint received by my office, with more than 14,000 complaints received last year – half of which were specifically about robocalls. My office receives new Do Not Call and robocall complaints at a rate of nearly 50 complaints per day. If this rate continues, the number of Do Not Call and robocall complaints could exceed 18,000 in 2016. The YouMail National Robocall Index estimates that more than 80 million scam or fraudulent calls are made to U.S. consumers and businesses each month, resulting in annual losses of \$8.6 billion.<sup>1</sup>

Twenty-four of my fellow Attorneys General and I support S. 2235, the HANGUP Act (House version: H.R. 4682), which would eliminate a recently enacted TCPA exemption allowing federal debt collectors to robocall cell phones. The HANGUP Act is intended to stop the barrage of debt collection robocalls that harass and frustrate our citizens who pay for such calls to their cellular numbers.

Legitimate businesses should recognize that consumers are barraged with unwanted calls and scams every day, and they do not want to receive unsolicited calls and texts. There are many ways to ensure their customers do indeed want their calls. In Indiana, companies are expected to

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<sup>1</sup> Source: <https://www.youmail.com/phone-lookup/robocall-index/2016/august>



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comply with the requirement that customers must opt in to receiving such calls and texts. This is a courtesy to their customers who have made it known up front that they do or do not wish to receive such calls.

Some sellers are urging you to create a safe harbor to protect them from the bad acts of telemarketers calling on their behalf or generating leads. This is because courts have imposed strict liability on the sellers in several cases. In Indiana, there is no “safe harbor” for those who hire telemarketers or buy leads to sell their products. Our legislature clearly stated that liability extends not only to those who make calls, but also to those who cause them to be made.

A process that reduces or eliminates calls and texts to people who do not want to receive them, while minimizing the potential for fines and statutory damages for businesses that make good faith efforts to comply, should be encouraged. However, sellers should never be permitted to enjoy the fruits of non-lawful calls while ignoring the bad acts of their agents and lead generators. That is why I am urging you not to water down the TCPA by approving any amendment that lets sellers off the hook.

Unwanted calls are a huge annoyance to our citizens. It’s frustrating when the federal government weakens state efforts aimed at protecting and serving our citizens. I urge Congress to stop allowing loopholes that legitimize robocalls and open citizens up to a barrage of unwanted or misplaced calls.

Respectfully,

Gregory F. Zoeller  
Indiana Attorney General