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ONE HUNDRED FOURTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225–2927
Minority (202) 225–3641

October 12, 2016

Mr. Shaun W. Mock
Chief Financial Officer
Snapping Shoals Electric Membership Corporation
14750 Brown Bridge Road
Covington, GA 30016

Dear Mr. Mock:

Thank you for appearing before the Subcommittee on Communications and Technology on September 22, 2016, to testify at the hearing entitled "Modernizing the Telephone Consumer Protection Act."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

Also attached are Member requests made during the hearing. The format of your responses to these requests should follow the same format as your responses to the additional questions for the record.

To facilitate the printing of the hearing record, please respond to these questions and requests with a transmittal letter by the close of business on Wednesday, October 26, 2016. Your responses should be mailed to Greg Watson, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to Greg.Watson@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

Greg Walden
Chairman
Subcommittee on Communications and Technology

cc: Anna G. Eshoo Ranking Member, Subcommittee on Communications and Technology

Attachments

Attachment 1—Additional Questions for the Record

The Honorable Greg Walden

1. The FCC's July 2015 TCPA Declaratory Ruling and Order contains a provision allowing one call to a phone number where the caller believes they have consent, when the number may have been reassigned to someone who had not given previous consent. However, this "safe-harbor" has been questioned as the recipient isn't required to inform the caller of the reassigned number or even answer the call for the rule to take effect. Has the FCC's safe-harbor provision been helpful to your business operations?

2. In an August Reuters article, Alison Frankel discusses "'Professional' robocall plaintiffs and the 'zone of interest' defense", specifically pointing out "businesses" started by individuals to profit off of filing TCPA lawsuits. When the law was enacted, do you believe its intent was to encourage these plaintiffs and the businesses that benefit from them?

3. The Do Not Call Section of the TCPA states: "It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent communications in violation of the regulations prescribed under this subsection." Do you believe this affirmative defense should also be applied to the Private Right of Action section? Why or why not?

The Honorable Gus Bilirakis

1. According to your testimony, your company had to discontinue what you deemed to be an important customer service because of the risks associated with litigation under the TCPA. Some businesses have opted to ensure compliance with TCPA by implementing rigorous monitoring of independent third parties with whom they contract. Unfortunately, with this oversight comes vicarious liability concerns and businesses must weigh the costs of TCPA driven oversight against the potential for litigation.

    a. If the TCPA were modified so an affirmative defense could be available for organizations who adopt a rigorous compliance program, would you be more likely to invest in these types of programs?

Attachment 2—Member Requests for the Record

During the hearing, Members asked you to provide additional information for the record, and you indicated that you would provide that information. For your convenience, descriptions of the requested information are provided below.

The Honorable Marsha Blackburn

1. In your opinion, what are three things Congress make certain we change in the TCPA when updating the Act?