



June 20, 2016

The Honorable Trent Franks, Chairman
The Honorable Steve Cohen, Ranking Member
Subcommittee on the Constitution and Civil Justice
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Franks and Ranking Member Cohen:

Consumers Union, the policy and advocacy division of Consumer Reports, urges you not to move forward with H.R. 2304, the Securing Participation, Engagement, and Knowledge Freedom by Reducing Egregious Efforts Act of 2015.

We share many of the concerns voiced by proponents of this legislation. We agree that citizens seeking to voice their opinions should not be subjected to the kinds of intimidating and abusive legal actions described by proponents.

But we believe the legislation needs further careful examination. If a federal statute is ultimately determined to have merit – as opposed to leaving the issue for state law to continue addressing – the bill should be revised significantly to better clarify its scope, so that it does not inadvertently become yet another weapon of intimidation that can be turned on the very kinds of people in need of protection from intimidation.

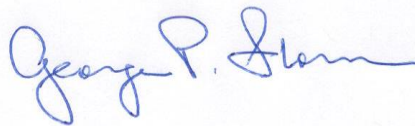
As the bill is written, we are concerned that its purpose could be turned on its head. An individual or small entity who is confronting hostile, well-financed, powerful forces that are seeking to sabotage its lawful activities on behalf of underserved consumers, for example, and who seeks to protect itself and its lawful activities in the courts, could be deemed to have filed a SLAPP suit, and the hostile, well-financed, powerful forces could be deemed to be victims, and then could recover legal expenses that would bankrupt the individual or small entity. That would be the exact opposite of a just result.

The bill contains a number of provisions that are unclear as to their scope or their operation, which we are concerned could lead to these and other unintended and unjust consequences.

Aside from these significant drafting issues, we also are concerned that bringing all these cases into the federal courts, even where they are based entirely on state law claims and defenses, could disrupt and undermine progress on efforts to address the problem of abusive SLAPP suits in the state courts. This threshold question also needs to be carefully considered.

For the reasons outlined above, we urge you not to move forward on this legislation.

Respectfully,

A handwritten signature in blue ink that reads "George P. Slover". The signature is fluid and cursive, with the first name "George" being the most prominent.

George P. Slover
Senior Policy Counsel
Consumers Union

cc: Members, House Judiciary Committee