Statement of the Honorable John Conyers, Jr. for the Hearing on the "Lawsuit Abuse and the Telephone Consumer Protection Act" Before the Subcommittee on the Constitution and Civil Justice

Tuesday, June 13, 2017, at 2:00 p.m.
2141 Rayburn House Office Building

Today's hearing considers the extent, if any, of abusive private right of action lawsuits brought to enforce the Telephone Consumer Protection Act, an important consumer protection law which prohibits calling a person without his or her prior express consent using certain automated technology like robocalls.

The Judiciary Committee clearly does not have jurisdiction over the underlying statute, which instead lies with the Energy and Commerce Committee.

This hearing nevertheless attempts to insinuate our Committee into this area based on the Majority's contention that "tort reform" is needed to end purported lawsuit "abuse" under this Act.

I am very skeptical that such so-called reform is necessary for several reasons.

To begin with, despite advances in technology, the Act remains an important consumer protection law. Congress should be wary of efforts to weaken protection for cell phone users under the guise of updating the law.

Congress originally passed the Act to protect residential landline telephone subscribers and businesses from unsolicited telemarketing calls and junk faxes.

But over time, through agency rulemaking and judicial interpretation, the Act has come to cover additional technologies such as cell phone calls and text messaging.

This is entirely consistent with the law's purpose.

Congress intended the Act to regulate the use of technology that intrudes on consumers' privacy.

Congress did not intend *only* to compensate consumers for harms arising from the unsanctioned use of specific automated dialing devices.

Another reason why we should be very skeptical of so-called reform efforts is that they may undermine the private right of action, which is critical to the enforcement of the Act.

Violators of the Act typically bombard consumers with hundreds of cell phone calls and text messages. These practices are, at the very least, highly annoying, if not an outright intrusion on their privacy.

But these practices are also disproportionately harmful to low-income households who are more likely to use limited prepaid wireless plans for their cellphones.

And while the harms to consumer privacy caused by these violations are real, they are often too minor for an individual consumer to justify the cost of seeking a legal remedy.

This is exactly why class action suits are absolutely necessary and why Congress provided for a private right of action under the Act as an effective enforcement mechanism.

Finally, we cannot solely rely on federal regulators and state law enforcement to uphold the Act.

Violations of the Act constitute one of the top complaints that regulatory agencies charged with enforcing the Act receive. In 2015, for example, more than 2 million robo-call complaints were filed with the FTC. This adds up to hundreds of thousands of complaints per month, far more than federal regulators are able to respond.

By comparison, that same year there were roughly 3,700 lawsuits brought under the Act. Nonetheless these lawsuits – which undoubtedly represent a small fraction of consumers harmed –serve to deter violations and promote compliance.

This underscores the fact that Congress must not hamstring private attorneys from enforcing the law on behalf of consumers. We should avoid making it *more* difficult for private attorneys to uphold important consumer protections, particularly if federal and state authorities lack the will or resources to do so.

The solution can never be to slam shut the court house doors on American consumers.

Accordingly, I look forward to hearing from all of the witnesses and I thank them for participating at today's hearing.