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The Center for Association Leadership

1575 I Street, NW
Washington, DC 20005-1103

p: 202.626.2723
f: 202.371.8315

asaecenter.org

May 20, 2016

Chairman Michael C. Burgess
Ranking Member Jan Schakowski
Subcommittee on Commerce, Manufacturing, and Trade
Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Burgess and Ranking Member Schakowski:

On behalf of the American Society of Association Executives (ASAE), a Washington, DC-based Section 501(c)(6) organization representing more than 21,000 association executives and industry partners from nearly 10,000 tax-exempt organizations, I am pleased to submit testimony on H.R. 5255, legislation to amend the Federal the Federal Trade Commission Act to permit the Federal Trade Commission (FTC) to enforce such Act against Section 501(c)(3) tax-exempt organizations. On behalf of our members, ASAE is opposed to H.R.5255.

Our concerns are outlined below.

- **Our nation's nonprofits do not require another oversight agency:** As tax-exempt organizations, 501(c)(3) organizations are regulated by the Internal Revenue Service (IRS). Additionally, every state has an office that registers and provides oversight of nonprofit organizations.

- **501(c)(3) organizations do not engage in "trade":** For-profit companies engage in business practices that enrich the directors, employees, and stockholders of the company. Nonprofits affected by this legislation are engaged in activities that provide public benefit, thereby justifying their tax-exemption, and substantially differentiating them from for-profit businesses.

- **The IRS currently punishes charities who engage in "trade":** Those nonprofits that seek to operate as a business through methods such as "excess benefits transactions", poor governance, or in-kind transactions are investigated by the IRS for violating their public benefit requirements. The IRS can impose penalties such as fines, prosecution, and even revocation of tax-status. Those organizations violating their status also faced public scrutiny.

- **The FTC is unable to naturally regulate nonprofits:** The FTC oversees businesses and for-profit corporations, not the diverse collection of nonprofits such as foundations, religious congregations, educational institutions, disease cure organizations, and disaster relief groups that this bill would place under FTC's oversight. To suggest that the same commission can correctly regulate the business practices of major telecommunications firms and a community charity is puzzling, and it is a concern for organizations whose financial practices would be overseen by FTC employees inexperienced in nonprofit governance.

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In closing, ASAE reiterates its opposition to H.R.5255. In a time of limited federal resources, the FTC has plenty of entities that it must oversee, and creating a new regulatory structure dealing with the oversight of certain tax-exempt organizations is unwise, duplicative and will create an unnecessary burden on our nation's charities. If I can answer any questions, please contact me or Jim Clarke, senior vice president of public policy, at 202.626.2865 or jclarke@asaecenter.org.

Sincerely,

J. H. Graham IV

John H. Graham IV, FASAE, CAE
President & CEO