

February 2, 2016



Free-Market, Pro-Consumer Groups Support Federal Anti-SLAPP Legislation

The Honorable Bob Goodlatte
The Honorable John Conyers, Jr.
United States House Judiciary Committee
Washington, DC 20515

Dear Committee Members,

On behalf of the undersigned free-market organizations, we write to express our strong support for H.R. 2304, the SPEAK FREE Act, and urge you to move it swiftly through markup. We believe robust free-speech protections are vital not only to preserve individual liberty, but also to facilitate commerce. This bipartisan legislation, introduced by Reps. Blake Farenthold, R-Texas, and Anna Eshoo, D-Calif., would bolster First Amendment protections against malicious or frivolous litigation that threatens to stifle free speech and undermine the digital economy.

Each year, a multitude of Americans fall victim to lawsuits called SLAPPs (strategic lawsuits against public participation) that are aimed at unfairly intimidating and silencing them. These kinds of lawsuits are highly effective, despite being without merit, since the legal costs, invasion of privacy, and hassle associated with fighting them is rarely considered a worthwhile use of individuals' time.

While 28 states have chosen to adopt anti-SLAPP statutes in some form or another, the federal government has yet to adopt its own standard and provide access to this powerful tool to all Americans who seek to stand up for their free-speech rights.

The SPEAK FREE Act would give defendants across the nation access to a special motion to dismiss SLAPPs, while also staying discovery. This would change the calculus of fighting meritless claims aimed at intimidation and censorship. In addition, the bill would empower courts to shift fees, so that defendants who prevail on an anti-SLAPP motion would not have to face the otherwise formidable legal costs.

An increasingly important facet of the digital economy is the ability to provide online reviews or feedback. This ability bestows confidence to consumers to do business with those they've never met, whether they are buying a product, hailing a ride, or booking a place to stay in an unfamiliar city. Unfortunately, online reviews increasingly are targeted by SLAPPs, as unscrupulous businessmen seek to censor their critics, rather than working to improve the experiences, products or services they offer.

Another essential function of the innovation economy is creative destruction, wherein new business models disrupt incumbent businesses. But SLAPPs are also used by established firms as a tool to shut down competing startups. In this context, the need to expand access to this powerful tool is greater than ever.

Thus, we urge you to support this legislation to help create a strong national standard to protect free expression and digital commerce against the pernicious threat of useless litigation.

Sincerely,

Mike Godwin, R Street Institute

Wayne Brough, FreedomWorks

Berin Szoka, TechFreedom

Ryan Hagemann, Niskanen Center

Timothy Lee, Center for Individual Freedom

Mytheos Holt, Institute for Liberty

Steve Pociask, American Consumer Institute

Ryan Radia, Competitive Enterprise Institute

David Williams, Taxpayers Protection Alliance