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June 14, 2017

The Honorable Robert Goodlatte, Chairman  
House Committee on the Judiciary  
2309 Rayburn House Office Building  
Washington, DC 20515

The Honorable John Conyers, Ranking Member  
House Committee on the Judiciary  
2426 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Goodlatte and Ranking Member Conyers:

The National Federation of the Blind, the leading membership organization of blind Americans, opposes H.R. 620, the ADA Education and Reform Act, as currently proposed. We believe that this bill will radically undermine the rights of people with disabilities while not meaningfully protecting businesses from frivolous litigation. The current evidence regarding the problems this bill seeks to address is, at best, sparse and anecdotal, and does not justify such a radical change to the ADA. Instead, we propose that the Congressional Research Service study the issues raised by this legislation, with further input from all stakeholders. The purposes of this research would be to get a complete and accurate picture of the realities of ADA litigation and to identify solutions to any real problems that can achieve consensus among stakeholders.

Calling for such a study would be consistent with the approach that you have already begun to take with respect to this bill. Your convening of stakeholders on May 11 to exchange views on the issues underlying H.R. 620 was one of the most productive approaches to these issues that has taken place to date. Among other things, this meeting revealed that people with disabilities are seeing a very different picture from that portrayed by the business stakeholders represented. Pushing through legislation when the two sides are so far apart will inevitably lead to policy that adopts one narrative over the other, effectively ignoring the views of one side (namely, people with disabilities). We therefore believe that further meetings among stakeholders and policy makers, as well as additional fact gathering on the issues, would lead to development of more effective ways of addressing stakeholders' real interests than the current bill.

Because of a lack of data on the number, location, and type of ADA Title III (i.e., public accommodation) lawsuits, it is currently difficult to assess with any precision the nature and extent of the problems business stakeholders claim to be experiencing. As a result, the best way to address those problems without inadvertently blocking or discouraging the many meritorious claims that make up the overwhelming majority of ADA cases is unclear.

As you have heard, stakeholders with disabilities have very different experiences of seeking access to businesses than business owners assert. Even twenty-seven years after the ADA, we encounter access barriers every day. Sometimes we are able to get around them. Many times we are not. But every barrier interferes with our daily lives, slows us down, makes us less productive, humiliates us, separates us, and prevents us from living the meaningful lives that we want and that other Americans take for granted. Rather than an openness to correct access barriers quickly without litigation, we too often encounter resentment, delay, and even open hostility to our attempts simply to be customers. We have no incentive to engage in litigation simply for the sake of litigation, because damages are unavailable under Title III of the ADA, and litigation is difficult, slow, and expensive. Indeed, because we bear the burden of proof, litigation is even more onerous for us than it is for business defendants. All we want is to have a meal, enjoy entertainment, and buy goods and services for our daily lives.

Business representatives have complained of being challenged for “technical violations.” We have explained that what they see as a small, “technical” violation may be the inch that makes a door too narrow or a ramp too steep for a wheelchair user. Business representatives say demand letters are confusing, bullying, and frightening. We have tried to point them to the free plain-English technical assistance materials available from the Department of Justice, as well as ADA Centers, independent living centers, protection and advocacy organizations, and private consultants across the country. Business representatives have complained of a dramatic increase in ADA lawsuits. We have explained that we have been patient for twenty-seven years, that we do not challenge the vast majority of access barriers we face daily (e.g., the single step that could easily be ramped, or the too narrow parking space that could simply be restriped), and that neither the Department of Justice nor private attorneys pursue most of the complaints we make. Without accurate, dependable, and representative data on the number, location, and type of cases being filed, H.R. 620 attempts to legislate based on anecdotes— anecdotes that are at variance from the lived experience of people with disabilities.

Furthermore, we believe that business stakeholders focus on the burdens of ADA compliance without reference to the benefits. If a restaurant has Braille menus, servers do not need to spend time reading the menu to blind or print-disabled customers while making other patrons wait for service. The elimination of physical barriers in places of business makes navigating and using the facilities easier and more efficient for everyone; for example, not just people in wheelchairs, but mothers with strollers and people using shopping carts or roller bags benefit from ramps. Finally, it should go without saying that ensuring that a business does not exclude customers with disabilities ultimately leads to more revenue for the business.

We firmly believe that H.R. 620 would make meritorious ADA lawsuits much more difficult and expensive, yet would not affect the very small number of lawsuits that have most concerned the proponents of the bill. In addition, it will decrease access by removing any incentive for businesses to identify and correct access barriers proactively. We need to increase access. We know that your committee shares our goal of increasing access without lawsuits, and we hope that business stakeholders do as well. I am happy to discuss our concerns and our proposed solution with you at any time. Please work together with us to ensure that the civil rights of people with disabilities continue to be meaningfully protected.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Riccobono", with a long horizontal flourish extending to the right.

Mark A. Riccobono, President  
National Federation of the Blind

cc: Representative Ted Poe