

Chris Netram
Vice President, Tax and Domestic Economic Policy

Nov. 17, 2021

The Honorable Frank Pallone, Jr.
Chairman
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Cathy McMorris Rodgers
Ranking Member
House Energy and Commerce Committee
2322-A Rayburn House Office Building
Washington, DC 20515

Dear Chairman Pallone and Ranking Member McMorris Rodgers:

On behalf of the National Association of Manufacturers, I write in support of bipartisan efforts to address the growing tide of fake and counterfeit products that are impacting manufacturers, consumers and others, including efforts to advance the INFORM Consumers Act as a critical piece of legislation in this fight. The NAM is the nation's largest industrial trade association representing nearly 14,000 manufacturers, large and small, in every industrial sector and in all 50 states.

Manufacturers are deeply concerned about growing sales of fake and counterfeit products, particularly online, which cost the U.S. economy nearly \$131 billion and more than 325,000 jobs in 2019 alone.¹ Counterfeiting has harmed manufacturers, American workers and consumers for years. The problem has only gotten worse with the explosive growth of e-commerce. The COVID-19 pandemic further highlighted the danger of counterfeit products, as bad actors abused online platforms to peddle fake tests, dangerous vaccines and ineffective personal protective equipment.

Although counterfeiting affects manufacturers of all sizes, this problem can be particularly devastating for small and medium-sized manufacturers, harming their ability to expand, to hire and to invest in their communities. These businesses, which actively use e-commerce platforms to reach customers, have fewer resources available to monitor illicit activity on a growing range of online platforms and are less able to absorb the blow when their signature products are targeted by counterfeiters utilizing these platforms.

This growing problem is why the NAM has led the charge for manufacturers in their fight against fake and counterfeit goods. In its July 2020 white paper² the NAM laid out a series of specific policy solutions that Congress and the Biden administration should adopt to address the issue: (1) requiring e-commerce platforms to reduce the availability of counterfeits; (2) modernizing enforcement laws and tactics to keep pace with counterfeiting technology; (3) streamlining government coordination to tackle counterfeit items; and (4) empowering consumers to be aware of, and avoid purchasing, dangerous counterfeit goods.

As part of that solution, the NAM has called repeatedly on Congress and the administration to require e-commerce platforms to take clear, specific steps to prevent the sale of counterfeits by third-party sellers, and to share information with consumers regarding counterfeit products. The INFORM Consumers Act does just that, requiring online marketplaces that host third-party

¹ National Association of Manufacturers, *Countering Counterfeits: The Real Threat of Fake Products* (July 2020), https://www.nam.org/wp-content/uploads/2020/07/CounteringCounterfeits.vF_.pdf.

² *Id.*

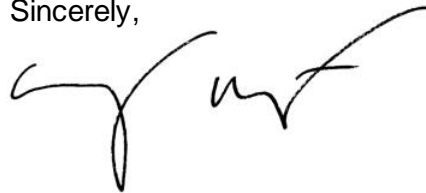
sellers to verify annually the identity of these sellers and to disclose to consumers basic identification and contact information for these sellers.

The INFORM Consumers Act takes a thoughtful, targeted approach—focusing on high-volume third-party sellers and taking steps to enable consumers and businesses to fight the online sale of counterfeit goods while also protecting the privacy of individual sellers. The bill represents months of robust consultation on both sides of the Capitol among all stakeholders, gaining support from manufacturers, e-commerce platforms, consumer groups and others as a clear, practical set of tools to fight counterfeiting.

As you consider the INFORM Consumers Act, manufacturers believe this legislation is, and must continue to be, strong and effective. If the committee considers additional changes during the mark-up, manufacturers would welcome and support improvements in the bill to ensure that it remains strong, including: (1) further lowering bill thresholds in ways designed to minimize loopholes for counterfeiters; (2) requiring high-volume sellers to attest affirmatively that their products are authentic and authorized for sale; (3) boosting retention of vendor records by platforms to enable good-faith enforcement efforts; (4) providing consumers with clearer information about who is fulfilling their orders; and (5) strengthening resources and tools for consumers to report suspicious or counterfeit activity and ensure that these provisions build on (and do not interfere with) implementation of existing platform programs and efforts to take action against counterfeits. Manufacturers look forward to working with you to advance strong legislative language in this bill.

On behalf of the millions of men and women who make things in America, thank you for your attention to this important issue. We would welcome the opportunity to engage further with you on this legislation and more broadly on counterfeiting concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Netram', with a stylized flourish extending to the right.

Chris Netram
Vice President, Tax and Domestic Economic Policy
National Association of Manufacturers