



April 2, 2019

The Honorable Jerrold Nadler  
Chairman, Committee on the Judiciary  
United States House of Representatives  
2132 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Doug Collins  
Ranking Member, Committee on the Judiciary  
United States House of Representatives  
1504 Longworth House Office Building  
Washington, D.C. 20515

**Re: HR 5 “The Equality Act” and Adverse Implications for the American Market**

Dear Chairman Nadler and Ranking Member Collins:

I write on behalf of the C12 Group, which represents more than 1,500 businesses across the nation, and serves more than 2,300 CEO, business owners, and executive leaders who share a Christian faith. These businesses vary in size from \$1M to more than \$8B in annual revenues, collectively employing hundreds of thousands of Americans. Our brand statement is “Building Great Businesses for a Greater Purpose.” As such, our members are dedicated to running their businesses consistent with their faith and ensuring their employees, customers, and clients are treated with dignity and respect.

We are deeply committed to the principle that all should be treated equally under the law, and that business owners should be free to operate their businesses consistent with their mission free from government punishment or coercion. After all, it’s this freedom that has allowed businesses to flourish for decades.

One example is a commercial cleaning company in Massachusetts. This company has been led by a dynamic CEO, who is herself a Brazilian immigrant, since 2009. Most companies in her industry face employee turnover in excess of 85%. For this CEO, her faith informs her commitment to treat every employee as a valuable and dignified person – not just “labor” – and as such, she has seen turnover decline to less than 15%! This is the Golden Rule from the Bible lived out with disciplined compassion, care, and quality management that has yielded a flourishing, economically prosperous business. In fact, she’s scaled this business from 10 employees to more than 150.

We are deeply concerned that H.R. 5, the “Equality Act,” if enacted, would negatively impact businesses, like this cleaning company in Massachusetts. While the legislation raises multiple concerns, we are most troubled that this legislation would eliminate opportunities for women-run businesses, violate the privacy of female employees and customers, expose employers to significant financial and legal liability, and stifle economic freedom and a diverse marketplace.

First, H.R. 5 would completely undermine the significant economic gains women have finally begun to achieve. Similar to women's sports, H.R. 5 would allow men (who self-identify as female) to apply for and take advantage of opportunities created exclusively for women.

C12 represents more than 340 women CEOs, business owners, and executives including many who have achieved woman-owned business status. For years, the Small Business Association (SBA) has certified Women Owned Small Businesses (WOSB) and Economically Disadvantaged Woman Owned Small Businesses (EDWOSB), awarding more than 267,000 contracts in 2014 alone. If H.R. 5 is enacted, these women and countless others would no longer enjoy a fair playing field to participate in such programs that empower female entrepreneurs to compete in the marketplace and launch new businesses. This would be a major setback for women in our country.

It would also allow biological men to take advantage of defense government contractor opportunities designed exclusively for women. For example, we represent numerous women who run 8a, ANC, and other special designation government contract and defense contract businesses across the nation. This law would guarantee that these and many more women would no longer be able to fairly or equitably take advantage of these opportunities exclusively created for women when men can simply profess a female identity and apply. How will such women be protected from the harm caused by this law?

Second, this bill would force business owners to violate employees' and customers' privacy rights and dignity interests because it prevents them from maintaining sex-specific facilities, like restrooms, locker rooms, and changing areas. As a result, female employees and customers would be forced to share restrooms, changing areas, and other similar facilities where they have an expectation of privacy with men who assert a female identity. And if the employer attempts to ensure that all her employees and customers' privacy is protected, she would fear EEOC complaints and litigation, which leads to our third point.

Third, H.R. 5 would create significant legal and devastating financial liability for employers which greatly increases their cost of doing business. Employers have a duty to ensure that employees and customers are not harmed while on their premises. If business owners are no longer allowed to maintain female-only spaces for women to shower and undress in, they become vulnerable to costly lawsuits. But this law would put employers between a rock and a hard place struggling to protect their employees and customers' privacy, while simultaneously avoiding complaints or lawsuits alleging violations of this law.

Furthermore, businesses could face costly and unreasonable litigation because this law would implement standards that are impossible for employers and business owners to understand—let alone comply with - by placing into federal law the ambiguous legal concept of "gender identity." Organizations like Facebook recognize at least 58 different genders, which include designations like "Cis Man," "Cis Male," "Cisgender Male," "Bigender," "Agender," and "Androgynous." By definition, "gender identity" is also fluid and proponents state that one's gender identity can vary for some people depending upon time and context. The misnamed "Equality Act" would create inequality for business owners by unfairly requiring them to discern, understand, and incorporate

all of the many genders with which their employees and customers might identify. Yet few people know what the numerous gender-identity terms mean, and even fewer know how to identify or differentiate between them. Requiring employers and business owners to consider these amorphous, subjective, and fluid concepts, and subjecting them to liability for missteps, deleteriously impacts America's job and revenue creators.

Lastly, the Equality Act would harm economic liberty, growth, and prosperity, particularly of small businesses. While proponents of the legislation claim that it will foster economic growth and prosperity, the facts speak to the contrary. Numerous studies of the states that provide the most business-friendly environments suggest that states without laws like the "Equality Act" enjoy greater economic growth and are more attractive to new enterprises, while many states that have similar laws have weaker economies and lower job growth. For example, in a 2018 report from *Chief Executive* on the "Best States for Business," nine of the top ten states do not have laws like H.R. 5. To the contrary, the top ten states ranked worst for business by *Chief Executive* do have laws like H.R. 5. At a minimum, this data indicates that these types of laws are not essential to economic growth.

It also underscores a broader principle that is relevant here. Economic liberty withers under the heavy hand of government. Businesses and the economy flourish most when the government protects their freedom and does not micromanage how these businesses operate.

Whether a business wants to give their Jewish employees Saturday off, or close their business on Sunday, or whether they want to reference religious texts at work or have political conversations, they should be free to do so. If we fail to unite together, regardless of our beliefs, ideologies, or passions, the government could silence any of us at any time. Majority and minority beliefs change with the passing of time. If we want freedom for ourselves, we must advocate for freedom for those with whom we disagree. And the government's role is to be a neutral arbiter—not to stifle, silence, or ostracize those with whom it currently disagrees. Tolerance is a two way street and disagreement of ideals or convictions does not equate to discrimination.

Diversity in the marketplace is good for the economy and it is good for all Americans. Choices and options for the rich, pluralistic nation we are benefits everyone. Congress should not pass laws that stigmatize and impose one set of values on everyone. Our laws should instead respect the freedom of all Americans—particularly our businesses—to peacefully work according to their convictions or beliefs.

H.R. 5 would impose a crushing and ambiguous business burden that harms economic effectiveness particularly of small and medium businesses. It would also likely require employers, many of whom are already struggling with the rising cost of healthcare, to cover pharmaceutical and surgical medical procedures for elective procedures that are quite costly and chronic in treatment. Elective surgical procedures and the costly pharmaceutical therapies necessitated by such interventions should not become an employer mandate at the expense of benefit resources for other employees or competitive capacities as a business in the global marketplace.



Furthermore, HR 5 would create a pronounced peril of businesses being excluded from public contracts by procurement agencies if the agency determines the business owner's beliefs or religious affiliation to be in violation of the law. We have seen this recently in how the cities of San Antonio, Las Vegas, and Buffalo excluded food vendors due to religious affiliation (not actual conduct or refusal to comply with ordinances). This law would only allow such government discrimination toward small businesses to escalate dramatically. It has been clearly demonstrated that municipal and state ordinances resembling H.R. 5 are used by the government to discriminate against and punish businesses owned by people of faith (whether Jewish, Muslim, Christian, etc.) who serve everyone but cannot speak every message or participate in every event. There are more than 500,000 privately owned businesses where the owner has a deeply held religious conviction in America. Each of these—and many more—is threatened by H.R. 5 and its ambiguous and onerous compliance burdens that will stifle the economic and human flourishing of our nation.

In conclusion, passage of H.R. 5 would mark a step backwards from our nation's commitment to ensuring that freedom flourishes and that the beliefs, viewpoints, and convictions of all be respected. We can and must do better than silencing and stifling different ideas but must remain committed to the diversity and pluralism that makes our country unique and contributes to America having the best economy in the world.

Sincerely,

Mike Sharrow  
President & CEO