

Chris Netram
Vice President, Tax and Domestic Economic Policy

September 28, 2021

The Honorable Jerrold Nadler
Chairman
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Jim Jordan
Ranking Member
House Committee on the Judiciary
2142 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Nadler and Ranking Member Jordan:

On behalf of the National Association of Manufacturers, I write to thank you for today's committee action on the Stopping Harmful Offers on Platforms by Screening Against Fakes in E-commerce Act (SHOP SAFE Act, H.R. 5374). 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. Counterfeiting, which this bill is designed to tackle, poses a major challenge for manufacturers across the country.

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 gotten worse, however, with the explosive growth of e-commerce. The pandemic brought this threat to the forefront 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 and to hire. These businesses 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 taking advantage of these platforms. All parties, including online platforms, must work together to prevent bad actors from abusing e-commerce channels.

This growing problem is why the NAM has led the charge for manufacturers in their fight against fake and counterfeit goods. In July 2020, the NAM released a white paper² that details how fake products, particularly those sold through online channels, are harming manufacturers, consumers and public health. The white paper also provides specific policy solutions that Congress and the administration should adopt to address the issue, such as (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 avoid counterfeit goods.

The NAM has repeatedly called on Congress and the administration to require e-commerce platforms to enact clear, specific steps to prevent the sale of counterfeits by third-party sellers,

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.

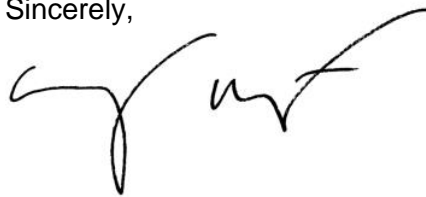
² *Id.*

and for those that do not, to apply contributory liability for infringement caused by those third-party sellers on their platforms.³ The SHOP SAFE Act would implement this broad framework and provide critical incentives for e-commerce platforms to utilize and improve on best practices to screen potential vendors to prevent the entry of counterfeit products onto their platforms.

The NAM appreciates the clear, practical approach reflected in the SHOP SAFE Act. As your committee marks up this legislation, we encourage you to strengthen it to ensure that it provides clear, implementable actions that e-commerce providers must take to keep counterfeiters and their products off their platforms, and that this list of actions is flexible enough to adapt to new tactics that counterfeiters may develop in the future.

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

³ Comments of the National Association of Manufacturers re: U.S. Patent & Trademark Office Docket No. PTO-T-2020-0035: Comment Request; Secondary Trademark Infringement Liability in the E-Commerce Setting, 85 Fed. Reg. 72635 (filed Dec. 23, 2020), http://documents.nam.org/IEA/NAM_Comment_Letter_USPTO_PTO-T-2020-0035_12.23.20.pdf.