



Automotive
Anti-Counterfeiting
Council



June 2, 2021

Rep. Hank Johnson
2240 Rayburn HOB
Washington, DC 20515

Rep. Darrell Issa
2300 Rayburn HOB
Washington, DC 20515

Sen. Thom Tillis
113 Dirksen Senate Office Building
Washington, DC 20510

Sen. Chris Coons
218 Russell Senate Office Building
Washington, DC 20510

Dear Representative Johnson, Representative Issa, Senator Coons, and Senator Tillis:

On behalf of the undersigned organizations representing U.S. intellectual property (IP) rights holders, manufacturers, and public health organizations, we welcome the introduction of the “Stopping Harmful Offers on Platforms by Screening Against Fakes in E-commerce Act of 2021” (SHOP SAFE Act of 2021). We applaud the bipartisan efforts in the House and Senate to set forth a seminal set of provisions incentivizing e-commerce platforms to address the sale of counterfeits online and to protect consumers from unsafe, unreliable, and unregulated products sold through these channels.

The last year has elevated the urgency of our collective concerns regarding the volume of counterfeit products sold online. The pandemic-driven shift to online shopping has emphasized that e-commerce platforms continue to be major sources for the sale of fake products. The accelerating magnitude of online fraud provides evermore urgency to establish definitive rules that ensure safe and secure online shopping. As the Subcommittee continues its efforts to advance this important piece of legislation, our organizations stand ready to support you.

We collectively wish to emphasize the following points regarding the SHOP SAFE Act:

- We call for the SHOP SAFE Act to proceed with its due diligence and accountability system fully intact to hold e-commerce platforms contributorily liable for trademark infringement when a platform does not follow certain best practices. We are fully supportive of best practices that would require platforms to verify and vet third-party sellers as well as require platforms to enforce

effective policies to expeditiously remove counterfeit listings and to terminate the accounts of repeat offenders.

- We endorse the emphasis on consumer health and safety as a priority. The U.S. Department of Homeland Security Report, *Combating Trafficking in Counterfeit and Pirated Goods*,¹ delineates a long list of counterfeits that can have significant and direct negative impacts on consumer health and safety. The United States has a long-standing track record of protecting consumers from commercial hazards and these protections should be extended immediately to consumers shopping online.
- At the same time, we call for the scope of the SHOP SAFE Act to be expanded to include the wider category of counterfeit products that violate or contravene U.S. trademark law. Again, referencing the DHS report, *“Harmful Offers”* on platforms go beyond products that carry consumer product safety risks. There are far deeper harms to America from illegal sales of counterfeits that cause widespread damage to U.S. economic competitiveness and compound threats to national security and public safety.² It would be irresponsible to only address one form of intellectual property crime, while permitting the balance of counterfeiting to persist on e-commerce platforms.

We offer the continued collaboration between ourselves, the brand owners we represent, and e-commerce platforms and other third-party intermediaries essential to providing greater consumer protection. However, it is time to move beyond relying solely on differing and voluntary approaches and on to a more comprehensive means to assuring a safe environment for this online ecosystem.

With this letter, we pledge our continued support and public advocacy of your efforts on the SHOP SAFE Act.

Sincerely,

Alliance for Safe Online Pharmacies (ASOP Global)
Automotive Anti-Counterfeiting Council (A2C2)
American Apparel & Footwear Association (AAFA)
Association of Home Appliance Manufacturers (AHAM)
Communications Cable & Connectivity Association (CCCA)
Consumer Healthcare Products Association (CHPA)
Halloween Industry Association (HIA)
Juvenile Products Manufacturers Association (JPMA)
Natural Products Association (NPA)
Personal Care Products Council (PCPC)
TIC Council Americas
Toy Association
Transnational Association to Combat Illicit Trade (TRACIT)

cc: House and Senate Judiciary Committee Members

¹ DEPARTMENT OF HOMELAND SECURITY, COMBATING TRAFFICKING IN COUNTERFEIT AND PIRATED GOODS: REPORT TO THE PRESIDENT OF THE UNITED STATES (Jan. 24, 2020)

https://www.dhs.gov/sites/default/files/publications/20_0124_plcy_counterfeit-pirated-goods-report_01.pdf.

² *Id.*