



Prepared Testimony and Statement
for the Record of
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U.S. Congressional Committee on Small Business --
Economic Growth, Tax, and Capital Access

Hearing Title:
Innovation as a Catalyst for New Jobs:
SBA's Innovation Initiatives

July 14, 2021

Via Zoom



Chairwoman Davids, Ranking Member Meuser, and members of the Committee, I am honored to have the opportunity to testify today on “Innovation as a Catalyst for New Jobs: SBA’s Innovation Initiatives.”

My name is Jeffrey Maguire, and I am a managing partner at Clearly Clean Products, LLC, which is based in Schuylkill County, Pennsylvania, and has nine locations. Our company invents and manufactures 100% recyclable food trays -- most notably, the Roll-Over Wrap™ tray. This patented tray is made from recyclable PET plastic, and its rolled edge does not tear the overwrap film on packaging for meat, poultry, produce, and seafood. Our goal is to provide a sustainable option to foamed polystyrene, more commonly known as Styrofoam.

When we began, we were told it would be like David versus Goliath. We invented an eco-friendly overwrap food tray that the industry said was impossible to manufacture, but we were – and are -- up against an entrenched industry of big-name companies. Fast forward to today, and we are blessed to have grown from three people to more than 200 people in less than five years. And we are forecasting our sales to double in 2022, creating even more jobs. What is at the heart of our growth? Innovation. And what is at the heart of innovation? Patents.

Those Goliaths I mentioned are now imitating our product, and we have been forced to take legal action to defend our patents. Time and money that could have been spent on innovation are instead being spent on protecting our patents from others who seek to capitalize on them. We won our first case, but now our patents are being challenged at their very core -- at the U.S. Patent and Trademark Office via an IPR, by a large company with extensive resources. We are confident in our numerous patents and will continue to fight the good fight, but not all small businesses can. What would be helpful is a policy that requires a company challenging the validity of a patent via an IPR to pay for the patent owner’s legal fees if that challenge fails. Without this safeguard, small businesses are forced to dig deep to defend what was theirs all along. And innovation suffers.

Another challenge we face is difficulty in hiring employees. We would hire 50 people today if we could, but we cannot. The supplemental unemployment and stimulus checks are keeping people home. We are competing with the government and cannot afford to. Before the COVID-19 pandemic, we started employees at the higher end of the pay scale. Now, our daily debate is whether we raise hourly rates to an unsustainable level to attract new employees or stop growing. We recently learned that one large company in our area has increased its wages to \$25 an hour; other large companies will likely follow suit. Small businesses are caught between the government and the deep pockets of big business. In the future, when we face a similar situation, we recommend policies that include funding for small businesses



to provide supplemental wages to the employees who continue to work. This would help stimulate the economy by providing bonuses to the working. What do the current policies do to small businesses? They force us to automate, which means less jobs. They force us to raise prices, which means inflation. They force us to throttle back growth, which is in no one's interest. And, yes, innovation suffers.

We firmly believe that Congress should enact a comprehensive solution to address the deteriorating infrastructure of the United States; however, that solution should not undo the competitive gains made through the Tax Cuts and Jobs Act. The ability to write off capital expenditures, such as equipment, has been key to our success, but why is real estate treated differently? If the depreciable life for manufacturing plants and warehouses was reduced from 39 years to 10 years, then small businesses could accelerate depreciation, which would enable quicker reinvestment.

With many small businesses, federal taxes are paid at a personal level. Increases to personal tax rates decrease the dollars available for reinvestment. So, when Congress increases the personal tax rate, it punishes small business. And, once again, innovation suffers.

In short, innovation flourishes when creativity meets investment. And investment flourishes when policies enable growth. Increased taxes, paying workers to stay home, and the legal fees associated with protecting already-awarded patents are all counter to growth and disproportionately impact small businesses.

We need to ask ourselves, are we a country that wants to leave innovation in the hands of the rich and powerful? Or, do we want to encourage fair competition and nurture small business? I know the SBA and this committee believe the latter. Our only hope is that future policies continue to foster innovation and enable growth so that small businesses can not only compete with Goliath, but -- just like David -- maybe one day even defeat Goliath.

Sincerely,

Jeffrey Maguire
Managing Partner
Clearly Clean



APPENDIX A

Tax Policies and the Impact on Clearly Clean Products, LLC

Detrimental Future Tax Proposal

Regarding future tax proposals, we would recommend the following:

- Do not allow the proposed income tax rate increase from 37% to 39.6%.
- Do not allow the proposed 3.8% net investment tax to be assessed on all pass-through income. This would effectively raise the marginal federal tax rate to 43.4%. Factoring in state taxes, the combined tax rate can be close to 50%. This will inhibit our future growth.
- Do not allow the bonus depreciation and qualified business income tax deduction to expire as scheduled in 2026 or potentially be repealed in 2022.

Beneficial Tax Policies

Clearly Clean has benefited from the provisions of 2017 Tax Cuts and Jobs Act (TCJA), which was effective in 2018. Specifically:

- Lowered maximum federal rate – 39.6% to 37%
- Establishment of 20 percent deduction of qualified business income for pass-through entities
- Bonus depreciation, which allows for full and immediate expensing of capital investments
- Federal research and development tax credits in 2018 and 2019 and any future credits
- PPP loan