



February 9, 2022

The Honorable Chuck Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Republican Leader
United States Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Pelosi and Leaders McCarthy, Schumer and McConnell:

I write to share the National Retail Federation's views on the upcoming House-Senate conference of H.R. 4521, the America COMPETES Act of 2022 and S. 1260, the United States Innovation and Competition Act (USICA) of 2021. While we are encouraged by the bills' focus on increasing the nation's global competitiveness and proactive approach toward China, there are significant outstanding issues that we urge Congress to address during the conference process.

NRF is the world's largest retail trade association, passionately advocating for the people, brands, policies and ideas that help retail thrive. From its headquarters in Washington, D.C., NRF empowers the industry that powers the economy. Retail is the nation's largest private-sector employer, contributing \$3.9 trillion to annual GDP and supporting one in four U.S. jobs – 52 million working Americans. For over a century, NRF has been a voice for every retailer and every retail job, educating, inspiring and communicating the powerful impact retail has on local communities and global economies.

Both the House and Senate bills contain provisions strongly supported by NRF. These specific elements of the legislation offer trade policy relief, supply chain solutions and transparency in online marketplaces. We believe the final legislative package must include the following provisions to address the pressing challenges faced by businesses and consumers.

- The Trade Act of 2021 – NRF supports the inclusion of this amendment, which was adopted with overwhelming bipartisan support, to the Senate-passed USICA. It contains a number of provisions retailers need to improve global trade and level the playing field, including reinstating the Section 301 tariff exclusion process overseen by the U.S. Trade Representative (USTR); renew the Generalized System of Preferences (GSP) program through January 2027; and reauthorize and retroactively extend the

Miscellaneous Tariff Bill (MTB) to provide duty-free relief for 1,500 products. Finally, both the House and Senate bills contain provisions focused on strengthening U.S. manufacturing and boosting supply chain investments.

- The Ocean Shipping Reform Act (OSRA) – NRF supports H.R. 4996, which previously passed the House and was included in the COMPETES Act. This bill will enact common sense reforms to address long-standing issues in the maritime shipping industry, which have been further highlighted by the COVID-19 pandemic.
- The INFORM Consumers Act – NRF supports the House bill, H.R. 5502, which was included in House passed COMPETES Act. It will require online marketplaces to verify the identity of high-volume third-party sellers and make identification and contact information of those sellers accessible to consumers. This verified information not only gives consumers more details about who they are purchasing their products from, but also assists retailers and law enforcement to address the rising incidences of organized retail crime.

While NRF supports the provisions outlined above of the two bills, there remain significant concerns for the retail industry that we believe Congress must address prior to final passage. Retailers and American businesses would face new liabilities through unpractical product labeling requirements, adverse changes to trade programs and laws and new complex regulations in the supply chain. Our specific concerns are detailed below.

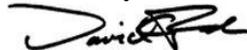
- Country-of-Origin Online Labeling (COOL) – NRF opposes both Sec. 80103 in the COMPETES Act and Sec. 2510 in USICA, that would require products sold online to include a country-of-origin label and seller location. This provision creates a new requirement for retailers and smaller sellers to not only post the information online but to certify the accuracy of the information provided by product vendors. Determining the country of origin is an extremely complex issue that is already regulated through U.S. trade laws and enforced by U.S. Customs and Border Protection. Given that this requirement is not extended to products sold in physical stores, it will lead to increased confusion on the part of the consumer. NRF urges Congress to remove it from the final legislation.
- Eliminating Private Employee Ballots (“Card Check”) – Added to the COMPETES Act via the manager’s amendment, this provision requires employers to recognize a union based solely on “card check” authorization, eliminating a private ballot vote for workers. Under current law, employees deciding whether to unionize are entitled to a secret ballot election overseen by the National Labor Relations Board. Employees may cast their vote confidentially, free from coercion from union organizers, employers and coworkers. This language would eviscerate this right and force workers to make their choice publicly in front of union representatives, coworkers and their employer. NRF strongly opposes the card check provision, along with federal government interference into private first contracts between unions and employers, and these policy changes will not enhance America’s competitiveness with China.

- Changes to U.S. Antidumping and Countervailing Duty (AD/CVD) Laws – NRF opposes the trade remedies provision which significantly overhauls AD/CVD laws that could add to inflationary pressures, raise costs for both businesses and consumers and slow global growth and competitiveness. The provision was not included in USICA, has not received consideration by House or Senate committees of jurisdiction, and should be removed from the final legislation.
- The National Critical Capabilities Defense Act – NRF urges Congress to remove this provision that would establish a National Critical Capabilities Committee to review certain outbound investments. These new reviews would restrict and complicate efforts by retailers and other businesses to engage in global markets. This process would be chaired by the USTR, which is not equipped nor has the experience to carry out this new responsibility to evaluate outbound investments for security risks.
- Seafood Import Monitoring Program Expansion – NRF members are concerned by the seafood provisions adopted in the America COMPETES Act (Secs. 70111 – 70119). Specifically, the new NOAA seafood import monitoring program requirements that create onerous and unworkable obligations for those within the seafood supply chain, including retailers and restaurants. The new requirements would only exacerbate current supply chain disruptions.
- Premerger Notification Filing Fees – NRF opposes Sec. 80201 in H.R. 4521, which would drastically increase filing fees for transactions valued at over \$1 billion by more than 155% and indexes future transaction costs to inflation.

We welcome Congress' continuing efforts to address competition issues with China and strengthen America's influence in global trade. While we support certain provisions, as we have detailed in this letter, we will also continue to share retailers' significant concerns with the problematic provisions currently within the bill that will burden retail and restaurant businesses and the American consumer.

Thank you for your consideration of our views.

Sincerely,



David French
Senior Vice President
Government Relations

cc: Members of the United States Senate
Members of U.S. House of Representatives