



July 20, 2020

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

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

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

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

Dear Speaker Pelosi and Leaders McConnell, McCarthy, and Schumer:

Thank you for your leadership during this pandemic crisis. The scale and the speed of the legislative packages that Congress has assembled, working under extremely challenging conditions, are truly historic.

As you contemplate the next round of fiscal stimulus, the National Retail Federation is pleased to offer suggestions. NRF's largest, single priority continues to be the health and safety of retail workers, customers and our communities. Together with our members, we are working to ensure retail and restaurant businesses have access to information and protocols to continue operating safely. We are also actively communicating with government and health officials to help our members navigate the numerous challenges posed by the COVID-19 pandemic. Recently, for example, NRF called upon all retailers to adopt a nationwide policy that requires customers to wear face coverings or masks while shopping in stores during the pandemic. We all want businesses to remain open, jobs to come back and the economy to start growing again. The retail industry is demonstrating leadership for our country, our associates and the communities we serve.

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.

Congress has passed several economic stimulus packages that provided a bridge for some businesses to help get through the crisis. Many of these programs, notably the landmark Paycheck Protection Program (PPP), delivered timely relief to the nation's smallest employers and likely helped to avert a much deeper employment crisis. Other programs, such as the Main Street Lending Program, have been too slow and too poorly designed to deliver the kind of

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liquidity many mid-sized retailers urgently needed as the pandemic unfolded. Some of these mid-sized companies have sought bankruptcy protection, while others have found credit but only under the harshest terms. Many of these companies have been allowed to reopen in recent weeks, so their outlook is improving slightly; but they remain hamstrung by weeks of limited revenue, high costs of protective gear, and capacity limits in stores. The hardest hit retailers are still facing urgent liquidity issues and desperately need access to capital to continue serving their customers. Simply adding more money to small business aid will leave these larger employers without help, so we encourage you to use tools like the tax code and tariff relief to inject liquidity more broadly.

As the administration and Congress negotiate the next fiscal stimulus package, NRF encourages consideration of the following proposals:

(1) Increase funding to loan and financial assistance programs that help retailers of all sizes retain employees and remain solvent. Expedite PPP loan forgiveness for all loans up to \$150,000. Fund and expand the SBA’s Economic Injury Disaster Loan (EIDL) program.

The CARES Act established critical loan and financial assistance programs that have provided much-needed economic relief for millions of small businesses. The PPP and EIDL programs have been essential tools for retailers that were struggling to retain employees and stay in business due to the pandemic. Congress should ensure that these programs are well-funded so that businesses can continue to access them as they contribute to the economy’s recovery. Congress can further help these millions of small businesses by lifting unnecessary burdens in the form of complex loan forgiveness paperwork. NRF strongly supports S. 4117, the Paycheck Protection Small Business Forgiveness Act, which would forgive PPP loans of less than \$150,000 upon the borrower’s completion of a simplified, one-page forgiveness document. This streamlined loan forgiveness process could collectively save small business owners more than \$7 billion dollars and allow them to focus time and resources on revitalizing their business instead of spending hours on paperwork.

(2) Enact liability protection against unwarranted lawsuits for businesses that follow government health and safety guidelines.

As a customer-centric industry whose employees interact with the general public in physical locations on a continual basis, we support congressional efforts to create a targeted and limited safe harbor from liability for companies that implement public health safety guidelines related to the transmission of COVID-19. Many of our member companies are providing necessary goods and services to consumers, and opportunities for Americans to return to work. They have taken extraordinary measures to protect the safety and well-being of their customers and employees while following government health guidelines in good faith. However, even with taking such extensive and unprecedented protective measures, our members’ customers or employees could still contract COVID-19 due to the extremely contagious nature of the virus. We have serious concerns that, without congressional action to establish a safe harbor, the threat of litigation —

even for those companies that faithfully follow government guidelines — will severely impact business operations, slow retailers' economic recovery and, in turn, negatively impact the economy writ large.

NRF has worked closely with member companies, government officials, health experts and others to devise retail industry-specific protocols to mitigate the transmission of COVID-19 and address future public health emergencies. Retailers' top priority has been the safety of their customers and employees, and our member companies are doing everything they can to safely and responsibly keep their doors open. Consumer-facing businesses like retailers should be able to rely on the public health safety guidelines and reopening parameters issued by government experts without the threat of liability. Such businesses should be permitted to focus their strained resources on safely revitalizing operations, serving the public and growing jobs for American workers. That is why we support federal legislation establishing targeted protections from liability for responsible businesses that implement public health and safety guidelines to prevent the transmission of COVID-19.

(3) Adopt tax relief to boost liquidity for retailers that have lost sales, yet face increased costs because of the pandemic. Include measures such as Healthy Workplace Tax Credit, the ability to monetize 2020 losses by getting an advance on a future refund, expansion of the Employee Retention Tax Credit to apply to workers that perform services, and improve the tax and trade treatment of U.S. charitable inventory donations so that retailers are not in a better position if they destroy inventory than if they donate it to charity.

Although the business tax provisions under the CARES Act provided businesses with liquidity and helped employers retain their workforce, many retailers are still facing significant revenue losses and increased costs due to the pandemic. To ensure the safety of their employees and customers, retailers are spending tens of millions of dollars — and in the case of larger retailers, potentially hundreds of millions — on protective gear and the reconfiguration of stores to increase social distancing. The recently introduced Healthy Workplace Tax Credit created under H.R. 7615 would address these rising new expenses by providing a refundable tax credit against payroll taxes for 50 percent of costs incurred by businesses for COVID-19 testing, PPE, disinfecting, extra cleaning and reconfiguring workspaces. This measure would greatly benefit consumer-facing businesses that are taking on additional costs while facing reduced sales. In addition, Congress should allow businesses to monetize 2020 net operating losses (NOLs), increase the size and flexibility of the Employee Retention Tax Credit and improve the tax treatment of charitable inventory donations to provide businesses with additional liquidity.

(4) Allow retailers that utilize loan and assistance programs, including tax credits, to cover significant fixed cost burdens such as rent and utilities.

Not all retailers have been affected by the pandemic in the same ways. While some retailers remained open throughout the crisis, stores that were temporarily closed have been hit as hard as other sectors like restaurants and travel. Fixed costs, such as rent and utilities, remain a

significant burden for these retailers as they continue to face revenue losses from decreased sales. Relief mechanisms for these expenses should be provided to companies that are struggling to cover them. Congress should consider allowing retailers to use funds provided by loan assistance programs to cover fixed expenses. Tax credits, such as the Employee Retention Tax Credit, should also be eligible to utilize for fixed costs.

(5) Prioritize economic relief for individuals and families, such as job training programs, incentives to return to work and support for the unemployed.

The impacts of COVID-19 on our nation's workforce have been sweeping, and NRF urges Congress to support policies that will help address the economic hardship faced by millions of families across the country while minimizing disincentives and obstacles for a return to work. The historic expansion of unemployment benefits under the CARES Act was intended to provide critical supports to workers, as businesses across the country were forced to temporarily close their doors as part of shelter in place orders. However, the \$600 weekly benefit has created distortions in the labor market that could ultimately lead to reduced employment and hold back our nation's economic recovery. According to the Congressional Budget Office, under a six-month extension of the \$600 benefit, approximately five of every six recipients would receive benefits exceeding the weekly amounts they could expect to earn from work during that same period.

With more than 30 million unemployment claims filed since the onset of the pandemic and elevated levels of unemployment expected for some time, NRF urges Congress to consider a more targeted approach to support unemployed individuals in the next stimulus bill rather than an extension of the \$600 supplemental benefit. A hybrid approach that combines return to work incentives, unemployment benefits that are proportional and account for variations in-state market conditions, and expanded upskilling opportunities would provide necessary support while mitigating unintended consequences.

In addition to the priorities listed above, NRF has been working on other federal efforts to respond to the impacts of COVID-19. One such effort is the Small Business Comeback Act, which was introduced in the House of Representatives today. This bipartisan legislation would create a recovery fund to provide businesses with the support they need to see it through the coronavirus pandemic. The Comeback Act would complement business assistance provided under the CARES Act through streamlined and tailored federal support for small businesses most impacted by COVID-19. The legislation provides targeted and temporary relief to help establishments retain and rehire employees, maintain worker benefits and continue or resume economic activity. The Comeback Act includes strong anti-abuse protections, and it would prioritize support for businesses that serve low- and moderate-income communities and women- and minority-owned businesses.

NRF is also strongly advocating for a pandemic risk insurance program such as the Pandemic Risk Insurance Act (PRIA) which would establish a pre-funded risk pool for businesses that can

demonstrate significant interruption as the result of a pandemic crisis. This would be a public-private partnership that would also allow businesses to recoup lost revenue when large events are cancelled, thus resulting in substantial losses. A federally insured pandemic risk insurance program would provide businesses of all sizes with the certainty they need to renew leases, invest in real estate, order inventory, plan for capital improvements, and hire and re-hire workers in the coming months. PRIA would also provide a mechanism for immediate and predictable economic recovery should the nation face another pandemic — even one of lesser magnitude than COVID-19.

Thank you for your leadership and attention to these important issues during this crisis. The priorities we have laid out will be key to recovery for retailers, and a healthy retail industry will be critical to accelerating the pace of economic recovery in the U.S. NRF looks forward to working with you as we move forward and overcome these challenges.

Sincerely,

A handwritten signature in black ink, appearing to read "David French". The signature is stylized and cursive.

David French
Senior Vice President
Government Relations

cc: Members of Congress