

December 15, 2021

The Honorable Nancy Pelosi, Speaker, U.S. House of Representatives
The Honorable Kevin McCarthy, Republican Leader, U.S. House of Representatives
The Honorable Chuck Schumer, Majority Leader, U.S. Senate
The Honorable Mitch McConnell, Minority Leader, U.S. Senate
The Honorable Jerold Nadler, Chair, House Judiciary Committee
The Honorable Jim Jordan, Ranking Member, House Judiciary Committee
The Honorable Richard Durbin, Chair, Senate Judiciary Committee
The Honorable Chuck Grassley, Ranking Member, Senate Judiciary Committee
The Honorable Frank Pallone, Chair, House Energy & Commerce Committee
The Honorable Cathy McMorris Rodgers, Ranking Member, House Energy & Commerce Committee
The Honorable Maria Cantwell, Chair, Senate Commerce Committee
The Honorable Roger Wicker, Ranking Member, Senate Commerce Committee

RE: Urging Quick Congressional Passage of SHOP SAFE Act (H.R. 5374/S. 1843) and the INFORM Consumers Act (H.R. 5502/S.936) to Stop Sale of Harmful and Dangerous Counterfeits Online

Dear Speaker Pelosi, Leader McCarthy, Leader Schumer, Leader McConnell, Chair Nadler, Ranking Member Jordan, Chair Durbin, Ranking Member Grassley, Chair Pallone, Ranking Member McMorris Rodgers, Chair Cantwell, & Ranking Member Wicker:

The undersigned organizations, representing U.S. intellectual property (IP) rights holders, manufacturers, and consumer safety organizations, urge consideration and passage of legislation that establishes better rules for secure and safe conduct of e-commerce in the United States to protect U.S. consumers from fraudulent and stolen goods sold via online marketplaces. This can best be achieved by passing each of the SHOP SAFE Act (H.R. 5374/S. 1843) and the INFORM Consumers Act (H.R. 5502/S.936) bills as soon as possible. Each bill introduces unique improvements in e-commerce that will immediately reduce unsafe and fraudulent consumer goods from being available and sold online to unsuspecting customers, who are unknowingly lining the pockets of unscrupulous sellers and organized criminals, and siphoning revenues from legitimate companies, workers and taxes that could go towards essential government and community services.

These bills are critical in their provision of new legal tools for online marketplaces, brand owners, and consumers to stop third party sellers from offering counterfeit and stolen goods via ecommerce platforms. Specifically, The INFORM Consumers Act requires new vetting, disclosure, and takedown responsibilities by ecommerce marketplaces for all consumer goods and establishes a regulatory mechanism administered and enforced by the Federal Trade Commission and at the state level by state attorney generals. SHOP SAFE establishes a strong incentive for online marketplaces to verify and vet third party sellers. Importantly, it also requires platforms to enforce effective policies to expeditiously remove counterfeit listings that implicate health and safety and to terminate the accounts of repeat offenders – or be subject to contributory liability for trademark infringement if the platform does not follow certain best practices. SHOP SAFE offers a new right of action for brand owners enforceable by the courts.

After decades of e-commerce growth in the absence of rules to ensure fair trade practices, more guidance from Congress is needed. Our members work closely with e-commerce platforms to protect our customers, but the time has come to standardize the rules across all online marketplaces to make customers just as safe online as when they purchase goods from brick and mortar stores. Congressional passage of each of these bills – SHOP SAFE and INFORM Consumers – would accomplish this goal.

Why is this necessary now? During COVID, e-commerce has exploded and, along with it, counterfeits, putting countless millions of hardworking American families in harm's way, empowering organized crime, and stealing American jobs. Therefore, we urge that the bills be considered and passed this year.

Sincerely,

American Apparel & Footwear Association (AAFA)
Association of Home Appliance Manufacturers (AHAM)
Communications Cable & Connectivity Association (CCCA)
Consumer Healthcare Products Association (CHPA)
Footwear Distributors & Retailers of America (FDRA)
Halloween Industry Association

Juvenile Products Manufacturers Association (JPMA)
The Alliance for Safe Online Pharmacies (ASOP)
The Fashion Jewelry and Accessories Trade Association (FJATA)
The Toy Association
TIC Council - Americas
Transnational Alliance to Combat Illicit Trade (TRACIT)

