



May 2, 2019

Dr. Peter Navarro
Assistant to the President
Director of Trade and Industrial Policy
Eisenhower Executive Office Building
Washington, DC 20502

Mr. Vishal Amin
Intellectual Property Enforcement Coordinator
Eisenhower Executive Office Building
Washington, DC 20502

Dear Dr. Navarro and Mr. Amin:

On behalf of The Toy Association, thank you for the opportunity to participate in the White House Intellectual Property Roundtable and for your focus on the very important issue of combating the trafficking of counterfeit goods. We are very much aligned with the US government on this issue and we would like to thank you for your interest in identifying and pursuing solutions. We welcome the opportunity to continue to engage with your offices on this topic through the working groups mentioned during the Roundtable and through other opportunities.

As background, The Toy Association represents more than 1,100 businesses – toy manufacturers, importers and retailers, as well as toy inventors, designers and testing labs – all involved in bringing safe, fun and educational toys and games for children to market. With an annual positive U.S. economic impact of \$110.9 billion, the U.S. toy industry supports 691,263 U.S. jobs and generates \$14.98 billion in state and federal tax revenue each year. Approximately 3 billion toys are sold in the U.S. each year, totaling \$27 billion at retail, and our members account for approximately 90% of this market. Importantly, over 95% of toy manufacturers, wholesalers, distributors in the United States are small businesses.

Curbing the flow of counterfeit goods in commerce is an issue of critical importance to the U.S. toy industry especially due to the safety concerns of counterfeit toys. By law, all toys sold in the U.S. must be compliant with the mandated product safety requirements, must be tested by an accredited, independent testing facility and must have a children's product certification. Legitimate toy companies spend significant resources to bring new, fun, educational and safe toys to the U.S. market. Suffice to say, many (if not most) counterfeit toys do not comply with these safety requirements.

Consumers have come to rely on ecommerce platforms to provide discounted pricing and wide selection of name-brand quality toys also found at brick-and-mortar retail. However, under the current marketplace system, illicit sellers with little or no accountability take advantage of this consumer faith by offering inferior and unsafe counterfeit toys that put our children at risk. For these sellers, bypassing US safety and testing regulations is a competitive advantage to provide toys cheaper and quicker. Anyone selling toys in the U.S. must be held to the same high safety standards that apply to the toy brands consumers have come to know and trust.

Unfortunately, enforcement efforts have thus far been insufficient to slow down the flow of IP infringing goods sold in the U.S. In fact, the problem has gotten worse, not better. So, we agree with Mr. Navarro's comments that, while Customs and Border Protection enforcement is a critical part of the solution, it cannot be the only solution and we encourage a holistic approach to tackling the issue.

The Toy Association developed an IP Committee to work with member companies (including some ecommerce platforms) on possible solutions. Through this committee, Toy Association members Amazon and Walmart and nonmember Alibaba have had opportunities to update toy companies on their brand protection efforts and to discuss the toy industry's concerns. Also, in January of this year, The Toy Association released a paper, [The Real Threat of Fake Toys](#), exploring the factors contributing to the rise in counterfeit goods sold through ecommerce platforms and some possible solutions. We welcome the chance to explore these problems and solutions further with your offices, but some potential ideas stand out after the roundtable discussion:

- Ecommerce creates a low hurdle to sellers giving illicit sellers near unfettered access to consumers. More must be done to ensure the legitimacy of the sellers and to provide transparency into who is selling on marketplaces. This could be achieved through increased vetting of sellers prior to joining marketplaces or through requiring a government issued seller registration number (like a business license) which would limit the illicit sellers' ability to create multiple identities and would improve targeting efforts.
- The burden of enforcement is disproportionately placed on the rightsholder who must register with each ecommerce platform to do their takedown requests – a costly and time intensive process. Collaboration, data sharing and improving takedown programs are some possible solutions to ease this issue.
- Finally, consumer education is a critical component to reducing the prevalence of counterfeits as consumers are largely unaware of the scope of the problem and they are often unable to distinguish between known sellers and illicit sellers on marketplaces. Some suggestions to solve this problem include increasing transparency into the identity of the seller and educating consumers on smart online shopping.

Thank you again for the opportunity to participate in the roundtable, we look forward to continuing to work with you and others on this important issue. Please feel free to contact Rebecca Mond, vice president of federal government affairs at rmond@toyassociation.org if you have any questions or would like to follow up with us.

Sincerely,



Steve Pasierb
President & CEO
Toy Industry Association