



June 21, 2022

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

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

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

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

RE: SUPPORT FOR SHOP SAFE & INFORM ACTS INCLUSION IN CHINA COMPETITION BILL

Dear Majority Leader Schumer, Republican Leader McConnell, Speaker Pelosi and Republican Leader McCarthy,

On behalf of the U.S. Toy Association, we write in strong support of your efforts to advance bipartisan legislation to strengthen the competitiveness of American workers and businesses and we urge you to ensure that the final competitiveness legislative package includes critical provisions from the America COMPETES Act to fight the growing threat of counterfeit products—the **SHOP SAFE Act** and the **INFORM Consumers Act**—both of which have garnered bipartisan and bicameral support.

The Toy Association, Inc. represents businesses across America that design, produce, and license toys and youth entertainment products. With over 900 members, the organization represents businesses of all sizes, from the smallest company just beginning its growth to the largest publicly traded companies. The annual \$38.2 billion U.S. domestic toy market with an annual U.S. economic impact of \$102.4 billion, supports an estimated 572,006 jobs (FTE) generating more than \$33.7 billion in wages for US workers.

Counterfeit products are an ongoing, growing and potentially devastating threat to the toy industry because of serious health and safety risks to children and families from the illicit trafficking of dangerous counterfeit toys¹ and significant financial harm to U.S. business. As the two largest publicly traded U.S.-based toy companies identified in their public filings, counterfeit products are a significant risk factor to their businesses because of the direct adverse effect of counterfeits on their financial condition and competitive position. Quite simply, U.S. businesses cannot compete with counterfeiters because of the

¹ As discussed in our 2020 white paper [Taking Fake Toys Offline: A 2020 Focus on Proactive Measures to Reduce Counterfeits and Unsafe Toys Sold on Online Marketplaces](#).

quality of materials, the cost of safety assurance testing, and other costs associated with bringing a legitimate and safe product to market.

The Volume of Counterfeits Online is Staggering and Growing

The current system places no responsibility on the seller or marketplace and has allowed for ever-growing numbers of counterfeit products offered on online marketplaces.

- A small toy company based in the Southeast, logs on average over 7,000 instances of products counterfeits monthly across at least 15 major platforms and numerous smaller platforms. They have shifted resources to dedicate three fulltime employees and three seasonal employees, who frequently spend nights and weekends in peak holiday shopping season, to searching online platforms and submitting take down notices.
- One small toy company based in the Northeast explained that it found 1,000 listings over six online marketplaces in a single week.
- A mid-size toy company with headquarters in the Midwest takes down hundreds of counterfeit products each week across 10 online marketplaces.
- A large toy company with its U.S. headquarters in the Northeast explains that it delisted approximately 160,000 items last year.
- A large toy company with U.S. headquarters in California explains that each month for a single brand, it takes down on average 1,000 counterfeit items from online marketplaces targeting the U.S. market. They explain that this is merely the tip of the iceberg because finding all counterfeits is cost prohibitive.

Fighting Counterfeits Takes Significant Resources and Causes Real Harm

The current system places no responsibility on the seller or the marketplace to prevent or police counterfeits. Instead, it requires that companies scour online marketplaces and investigate, report, and prove infringement to the marketplace. This requires significant resources that undercut businesses' financials, stifle growth, harm competitive positions, and thwart small business success.

- One small toy company based in the Northeast, explains that as a result of counterfeits, their sales have declined precipitously.
- A small toy company based in the Southeast, began "test purchases" from online marketplaces after receiving complaints from consumers that had unknowingly purchased counterfeits of one of their popular holiday gifts. Test purchases revealed contents of the counterfeits to include deteriorating and dirty pieces, possibly used hair accessories, and other items posing small parts/choking and sanitary hazards.
- A mid-size toy company based in the Midwest estimates that over the past six years, the cost to protect their brand and the negative impact on revenue, including damage to the brand reputation as consumers have bad experience with inferior counterfeit products, is millions of dollars. Indeed, in 2018, their business was severely jeopardized by an unsafe product sold online when a child was severely injured, and the knock-off product was falsely attributed to their company. The company worked tirelessly to clear their name and still address the damage to their brand from this incident today.
- A large toy company with its U.S. headquarters in the Northeast explains that it spends over \$2million annually on global online enforcement, with two full-time staff dedicated to working on the issue.

- A large toy company with U.S. headquarters in California dedicates two employees each spending 10-15 hours per week searching online platforms and submitting take down notices.
- A large toy company with U.S. headquarters in California shares that in addition to dedicating multiple staff, it must hire outside vendors at a cost of over \$150,000 per year and license software that facilitates monitoring for counterfeits at a cost of over \$100,000 per year.
- A mid-size toy company based in the Midwest explains that they have dedicated two employees each spending over 25 hours weekly to searching online platforms and submitting take down notices. They also hired an outside vendor specializing in online takedowns at significant cost.

Action Must be Taken

Unless action is taken to change the system, this problem will continue unabated. As one large toy company explained, if no action is taken, it can easily be forecast that in 5-10 years, generic unregulated products shipped from overseas will be the mainstay, leaving the U.S. consumer with no guarantees as to safety or quality, and U.S. companies without protection for their intellectual property, and the economy beholden to counterfeiters and foreign manufacturers.

The time for action to curb the flow of counterfeits and protect American businesses as well as the safety of children and families is now. On behalf of the more than 900 businesses represented by the Toy Association we urge the inclusion of INFORM Consumers and SHOP SAFE in the competitiveness package as a significant legislative step to combating this problem.

Sincerely,

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

Steve Pasierb
President & CEO