

May 21, 2021

The Honorable Maria Cantwell
Chairwoman
Senate Committee on Commerce,
Science and Transportation
Washington, DC 20510

The Honorable Roger Wicker
Ranking Member
Senate Committee on Commerce
Science and Transportation
Washington, DC 20510

RE: Remove COOL Online Act from U.S. Innovation and Competition Act

Dear Chairman Cantwell and Ranking Member Wicker,

On behalf of the undersigned trade associations, we are writing to urge you to remove the Country of Origin Labeling Online Act (Sec. 2510) from the U.S. Innovation and Competition Act. We continue to be concerned about the broad impact this bill will have on all retailers and sellers who sell their products online.

Determining the country of origin is an extremely complex issue that is determined through our trade laws and enforced by U.S. Customs and Border Protection. Despite how the provision was described during markup, it does not create parity between brick and mortar and online stores.

The provision will create a new liability for retailers and sellers to not only post the information but certify the accuracy of the information provided by product vendors. This is not required for products sold on store shelves. The country-of-origin information is affixed to the product by the manufacturer, which the consumer can see on the box or product label, or made available at point of sale for unpackaged produce. Requiring the seller to post this information creates a new liability for the retailer or seller. Additionally, there are significant differences between simply requiring a manufacturer to include the information on a package/label that is sold in a brick-and-mortar store versus the data that must be collected and surfaced for millions of products sold by millions of suppliers online.

We are also concerned about the ability of the Federal Trade Commission to enforce the new requirement. We do not believe the FTC has the ability to make appropriate determinations on the country-of-origin, which is enforced by U.S. Customs and Border Protection. Even with limited safe harbor provisions and/or scoping, it is unclear how this would be implemented and enforced and, ultimately, what value this provision would provide to the consumer.

Finally, this provision should be removed from the bill because it was not given proper consideration or debate during the markup and stakeholders were not afforded an opportunity to discuss their concerns.

We welcome the opportunity to work with you on this issue, but again believe it should be removed from the underlying bill. Thank you for your consideration.

Sincerely,





CC: Senate Commerce, Science and Transportation Committee Members