

April 21, 2022

The Honorable Chuck Schumer  
Majority Leader  
U.S. Senate  
Washington, DC 20510

The Honorable Mitch McConnell  
Minority Leader  
U.S. Senate  
Washington, DC 20510

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

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

**RE: Concerns with INFORM Consumers Act during America COMPETES Act/ USICA Conference**

Dear Majority Leader Schumer, Minority Leader McConnell, Speaker Pelosi, and Minority Leader McCarthy:

As Congress negotiates a final bill based upon the United States Innovation and Competition Act (USICA) and the America Creating Opportunities for Manufacturing, Preeminence in Technology, and Economic Strength (America COMPETES) Act, ETA and our members have concerns with the INFORM Consumers Act and the inclusion of it in any final package. While we applaud the goal of Congress' interest in stopping harm to consumers posed by bad actors and those misusing online marketplaces but as written this legislation imposes significant burdens to payment processors.

ETA is the world's leading advocacy and trade association for the payments industry. Our members span the breadth of significant payments and fintech companies, from the largest incumbent players to the emerging disruptors in the U.S and in more than a dozen countries around the world. ETA members make commerce possible by processing more than \$21 trillion in purchases worldwide and deploying payments innovation to merchants and consumers.

As more Americans utilize online shopping options, e-commerce marketplaces are helping connect consumers with online small businesses and internet enabled entrepreneurs to drive sales domestically and around the globe. This surge of e-commerce businesses has helped the country's economic recovery from the ongoing pandemic, and we cannot afford to stifle economic growth when we need it most.

Specifically, ETA is concerned that this legislation would require payment processors to provide marketplaces with sensitive financial information on demand to online marketplaces, which may be prohibited by contract, and could increase the risk of fraud.

To alleviate those concerns ETA proposes the following changes to the language:

**PROVISION OF INFORMATION.** —The bank account or payee information required under subclause (I) may be provided by the seller in the following ways:

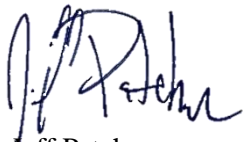
(aa) To the online marketplace.



(bb) To a payment processor or other third party contracted by the online marketplace to maintain such information, provided that the online marketplace ensures that it can obtain such information ~~on demand~~ within a reasonable time frame from such payment processor or other third party if the payment processor or other third party is able to attain consent from the seller.

The inclusion of this language eases the burden placed on payment processors without competing with the original intent of the bill in stopping harm to consumers posed by bad actors and those misusing online marketplaces. We urge you to amend the language in the INFORM Consumers Act and look forward to working with you and your staff. If you have any questions, please contact me or ETA's Senior Vice President of Government Affairs, Scott Talbott at [stalbott@electron.org](mailto:stalbott@electron.org).

Sincerely,



Jeff Patchen  
Director of Government Affairs  
Electronic Transactions Association

cc: Senate Commerce, Science, and Transportation Committee Conferees  
House Energy and Commerce Committee Conferees

