

May 6, 2020

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
Washington, D.C. 20515

The Honorable Kevin McCarthy
Republican Leader
United States House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Chuck Schumer
Democratic Leader
United States Senate
Washington, D.C. 20510

Dear Speaker Pelosi and Leaders McConnell, McCarthy, and Schumer:

The Electronic Transactions Association (ETA) and its members applaud Congress for their recent actions to protect the American people from the spread of the coronavirus (COVID-19) and mitigate its direct and indirect economic effects – including much needed provisions to diminish the impact of COVID-19 on our nation’s small businesses. As the next phase of the COVID-19 response begins to take shape, ETA wants to highlight a number of provisions lawmakers can take to help small businesses.

ETA has over 500 member companies, representing the complete payments technology ecosystem. Its membership includes financial institutions, payments processors, merchant acquirers and payments sales organizations, financial technology companies, technology companies, money services businesses, security companies, software developers and hundreds of other organizations in the business of powering digital commerce online and across the world.

Replenish the Paycheck Protection Program

The Paycheck Protection Program (PPP) has provided hundreds of billions of dollars of assistance to small businesses, but a significant number of the most vulnerable small businesses and independent contractors have found it difficult to obtain PPP loans. We support Congress’ efforts in securing additional funding to both programs to make sure every small business receives the necessary assistance.

Entering this crisis, the average main street small business had only 10 to 14 days of cashflow to keep their businesses open without taking in new revenue. While some businesses are able to operate in the stay-at-home environment, most small businesses have gone through weeks forgoing revenue to cover inventory, rent, mortgage, pay their general operating costs and most importantly, to cover payroll.

Statistics provided by the Small Business Administration on the loans approved through the PPP clearly demonstrate that the overwhelming majority of small businesses do not require millions of dollars to stay in business. Since Round 2 of the PPP loan processing began on April 27, 2.2 million loans have been made – most notably, the average loan size is \$79,000.



ETA members – banks and fintech lenders – have deployed innovative solutions and products that have helped tens of thousands of American small business owners access billions of dollars under the PPP. As the PPP has reached the limit set by Congress, there are still thousands of small businesses that need much needed capital. No small business, non-profit, sole proprietor, or independent contractor should be left behind simply because others applied and received loans first.

As Congress continues its work to preserve our nation’s small businesses, we urge you to ensure that the PPP is adequately funded and that all small businesses can receive the assistance they need.

Expand Approved Uses for Small Business Administration Loans

According to the CARES Act and the Paycheck Protection Program and Health Care Enhancement Act, small businesses are allowed to use PPP funding for payroll, health benefits, utilities, rent and mortgage payments.

However, this program does not yet help the hospitality industry address its most pressing technology gap – creating a successful on-line ordering and pick-up infrastructure. Without a functional on-line ordering system, small restaurants cannot generate revenue during existing quarantine conditions. For restaurants, on-line ordering and curbside payments systems have become essential services. Without them, restaurants will not be able to emerge from these crisis conditions and begin to re-hire staff.

To fill this gap, Congress should take the following action:

- Amend the legislation authorizing the PPP to expand the allowable uses of covered small business loans. Loan recipients should be allowed to use the proceeds of loans to acquire “essential services” that include on-line order fulfillment and curbside mobile payments infrastructure.

Adopting this recommendation will help small and medium-sized hospitality businesses survive the current crisis, preserve jobs, and prepare for a future business environment that will see periodic pandemic business interruptions. On-line ordering and curbside mobile payments systems are available for even the smallest restaurants and businesses. They can be quickly implemented with a very low up-front investment, so they can be adopted in time to help small businesses cope with current conditions.

Sample Legislative Language:

Amend Title I, Sec. 1102 (F) of the CARES Act – (allowable uses of covered loans) as follows:



Insert (VIII): *(VIII) Software and hardware systems to enable remote ordering and pick-up capabilities, including on-line order systems, business process enablement systems, and curbside mobile payment systems.*

Essential Business Liability Protections

ETA members are committed to doing the right thing by remaining open for business and serving the American people during this crisis. But there is an emerging threat to their ability to continue serving customers: efforts by some to take advantage of the current crisis to file unfounded lawsuits against them alleging that customers and employees were infected with COVID-19 because the nation's essential critical infrastructure businesses kept operating.

Given the historic efforts of Congress and the Administration to save businesses large and small, as well as American jobs, it would be devastating to have these same employers facing a series of unjust lawsuits.

Congress can help solve this problem to ensure that America's essential critical infrastructure continues to serve the American people. Many states in the U.S. have laws protecting good Samaritans from lawsuits. These protections cover individuals as well as corporations, such as airlines and vaccine manufacturers that help protect passengers or customers in need. During the COVID-19 crisis, businesses that make up the nation's essential critical infrastructure are acting as good Samaritans. They are serving the real, immediate needs of the American people and they should not have to worry they will be sued for simply providing the products and services Americans need right now.

Given the threat to these employers and their associates, we ask for your leadership and support for liability protection language for businesses designated as essential critical infrastructure by the U.S. Department of Homeland Security Cybersecurity and Infrastructure Security Agency's guidance in the next COVID-19 stimulus bill.

Thank you all for your leadership. We look forward to continuing to work with you to help our nation as we confront this challenge together. To learn more about what the payments industry is doing to help with COVID-19, ETA has created a resources page that can be access [here](#).

Sincerely,



Jodie Kelley
Chief Executive Officer
Electronic Transactions Association

