NRF PRIORITIES FOR THE NEXT ECONOMIC STIMULUS PACKAGE

NRF's biggest priority continues to be the health and safety of customers, colleagues and communities, and ensuring retail and restaurant businesses have a plan to safely reopen. We are actively communicating with businesses and government and health officials to navigate the numerous challenges posed by the COVID-19 pandemic. Congress has passed several economic stimulus packages that provided a bridge to businesses to help get through the crisis. However, many companies are still facing urgent liquidity issues and desperately need access to capital in order to continue serving their customers. As federal, state and local governments prepare to reopen the economy, a healthy retail industry will be critical to economic recovery. Consumer spending comprises 70 percent of total GDP in the United States, and the complete retail ecosystem employs 52 million people — 1 in 4 American workers. As the administration and Congress negotiate the next fiscal stimulus package, NRF encourages consideration of the following proposals.

Liability Reform

NRF supports legislation limiting employer liability for COVID-19 personal injury claims arising in connection with the provision of goods or services to consumers in the ordinary course of business. We are also evaluating no-fault alternatives to civil litigation that could establish fast and efficient employee compensation programs for those employees who contract COVID-19 in the workplace during the course of their employment.

Business Tax Relief

The business tax provisions in the *CARES Act* provided businesses with liquidity and helped employers retain their workforce. NRF suggests the following proposals to provide further relief:

1. Operating Losses
    a. Monetize 2020 net operating losses (NOLs) to provide more liquidity to businesses until customers can return to stores. Under the *CARES Act*, businesses were permitted to carry losses back for 5 years to offset against tax liability in profitable years and get a refund from the IRS. However, many retailers and restaurants cannot wait until the Spring of 2021, when they file their tax returns for 2020, to apply for this benefit. Congress should permit businesses to monetize a portion of anticipated 2020 losses based on an estimate of the loss for the first quarter of the year.
    b. Because of the transformation of the retail industry over the last several years, many retailers do not have sufficient profits in the past five years to offset the losses from 2020. Congress should allow NOLs from 2020 to be carried back for 10 years.
    c. Change the NOL ordering rules so that GILTI does not eliminate the benefit of the carryback in the *CARES Act*.
2. Enact a Healthy Workplace Tax Credit to include costs of PPE, cleaning supplies, third-party deep cleaning, digital costs related to more contactless payment systems and store reconfigurations and signage to provide more distancing.
3. Allow employers with more than 100 employees to use the Employee Retention Tax Credit for employees who are still performing some services.

4. Expand the ability to take deduction for charitable contributions of inventory.

Rent Forgiveness Program (RFP)

A Rent Forgiveness Program ("RFP") will help avoid dire economic consequences and lay the groundwork for sustained economic recovery. Its key elements are to:

1. Protect families and businesses from downgrades in credit ratings and scores due to any missed rent payments during the COVID-19 crisis.
2. Provide residential and business tenants with funds to pay up to three months of rent for June, July and August 2020 — with a cap at assisting rents up to 120% of the area's median rental rate.
    a. Residential and business tenants economically impacted by the pandemic would get assistance to pay their rents for a three-month "covered period" (June – August 2020).
    b. Rent amounts over 120% Area Median Rent would not receive government support. Any "exceedance rent" would be borne equally by the tenant and landlord; tenant remains obligated to pay 50% of the "exceedance" and landlord forgives 50%.
3. Implement the RFP through a federal-state agency partnership — with rental assistance paid directly to tenants.
    a. U.S. Treasury oversees the program, supported by HUD for the residential component.
    b. State taxation agencies — with pre-existing infrastructure to transfer funds to households and businesses coded by taxpayer IDs — directly disburse federal RFP monies to tenants.
    c. State housing agencies — that likewise have systems in place to process federal housing assistance payments — accept and process RFP applications for the residential component.
    d. Tenants receiving RFP assistance must demonstrate economic harm from COVID-19 (e.g., laid off, shuttered business) and certify they will use RFP proceeds only for purposes of paying rent for obligations incurred during the "covered period."

In summary, the RFP puts struggling families and businesses on a path to long-term recovery by paying and forgiving up to three months of their rent obligations.

Paycheck Protection Program (PPP) Enhancement

While public health measures require the retail industry's customers to stay at home and businesses to close, the PPP is intended to provide short-term bridge funding to help small businesses cover basic payroll costs and expenses. Program eligibility should be expanded, however, to provide meaningful relief for a larger number of severely impacted small businesses. To improve the PPP and allow greater access, the following should be considered:

1. Program eligibility should be expanded to include additional small businesses with multiple locations. Under the CARES Act, certain business concerns with more than 500 employees spread over multiple locations or across multiple NAICS codes are prohibited from receiving a PPP loan, with the exception of business concerns in the lodging and restaurant industries. This limited exemption should be expanded to cover other severely impacted industries, including retail and entertainment.
    a. Expand multiple location waivers to entertainment and retail. Amend 15 U.S.C. 636(a)(36)(D)(iii) to allow businesses in severely impacted industries, including arts and entertainment (NAICS 71) and retail trades (NAICS 44-45), with multiple physical locations, but less than 500 employees per location, to receive PPP loans.

   b. Amend 15 U.S.C. 636(a)(36)(D)(iv) such that, in the case of entities that operate in one or more unrelated NAICS codes, SBA affiliation rules are waived for an entity that has fewer than 500 employees in a particular NAICS code.

2. PPP loans should reasonably cover both payroll and nonpayroll expenses. The calculation for maximum PPP loans is just 2.5x the average monthly payroll for 2019 and is inadequate to help small businesses cover both payroll and expenses during the covered period.
   a. Calculate maximum loans at 4x average monthly expenses. Revise how the loan amount is calculated to include the average payroll, mortgage interest, qualified rent and utilities (as defined in section 1106 of the CARES Act) for 2019, up to a maximum of $10 million. This revised calculation will provide small businesses with more flexibility to cover both basic employee costs and necessary expenses, while businesses are closed in the interest of public health. Additionally, prohibit the SBA from requiring that 75% of loan amounts be spent on payroll costs to allow businesses to maintain payroll and cover other essential business expenses.
3. Allow flexible loan forgiveness for small retail and restaurant businesses with few or no customers. Necessary public health measures have caused small businesses to lose most of their customers or close entirely. Without customers, there is no reason for small businesses to rehire employees to normal levels. Yet, these businesses must also pay rent, mortgages, utilities and other basic costs during the shutdown and beyond. Unfortunately, the PPP forces small businesses to rehire workers to normal levels, even without customers, and discourages them from using loan proceeds to cover basic expenses. The CARES Act clearly contemplates 4 categories of eligible expenses for loan forgiveness (payroll, mortgage interest, rent, and certain utilities). And while there are forgiveness amount reductions in the Act for failing to maintain pre-crisis employment levels and/or wages, there is nothing in the law that restricts any of these expenses to a certain percentage of the forgiveness amount. The current construct (between the Act and SBA's implementing regulations) makes the PPP impractical for helping businesses stay afloat while they are closed or have very few customers in the interest of public health.
   a. Require the SBA to allow full loan forgiveness on any amount used to cover eligible nonpayroll expenses (as defined in section 1106 of the CARES Act).
   b. Remove forgiveness amount penalties for businesses that do not maintain pre-crisis employment numbers and/or wages for businesses that have been closed or significantly disrupted due to government closure and/or shelter-in-place orders.
4. Extend PPP to cover the worst months of the economic slowdown. The PPP is expected to run out of funding within the next several weeks and the covered period for the program ends on June 30, 2020. It's clear that extended public health restrictions and a slow return to normal work, public gathering and travel patterns will result in small businesses having limited customers and revenue far beyond June 30.
   a. Extend PPP through December 2020. This will ensure the PPP provides support through the worst of the economic slowdown.
   b. Allow small businesses to receive up to three PPP loans or, alternatively, permit PPP recipients to apply for expansions of their current loans up to 2 times so long as the applicant can demonstrate that the previous loan proceeds have been fully expended on allowable uses as defined in 15 U.S.C. 636(a)(36)(F).

Workforce Provisions

The COVID-19 pandemic has presented new and unique challenges for employers and employees alike, and retailers are focused first and foremost on the safety of their team members and their customers. As the economy begins to reopen, the following proposals should be considered to help facilitate the safe return of millions of Americans to work:

1. Federal assistance to streamline state unemployment systems to both simplify access for workers who have been furloughed or laid off and to minimize disincentives and obstacles for a return to work. Ensuring program integrity under the *CARES Act's* expanded unemployment provisions will be critical to mitigate potential disincentives for employees to continue working or return to work.
2. Consistency in workplace and public safety guidance across all levels of government, without overburdensome regulatory schemes, to facilitate a safe and sustainable reopening of the retail industry. Coordination and streamlined guidelines will be particularly important on workplace safety, worker and consumer privacy, and testing issues as our understanding of the coronavirus continues to evolve.
3. Support for existing and potentially new workforce development programs that will help ensure a successful return to work through re-employment services and training.

Federal Business Interruption Fund and Workers Compensation Fund

NRF supports a bill led by Rep. Nydia Velasquez (D-NY) that would create a Federal Business Interruption (BI) and Workers Compensation Fund to help small businesses and aid employee retention through the coronavirus pandemic. The COVID-19 Business and Employee Continuity and Recovery Fund ("Recovery Fund") is patterned after a streamlined version of the September 11th Victim Compensation Fund. It would be funded by the federal government and under the authority of a special federal administrator with the ability to enter into contracts with interested businesses to administer the Recovery Fund and facilitate the distribution of federal funds and liquidity to impacted businesses and their employees. The requested relief would be tied to requirements to keep employees on the payroll, maintain worker benefits, and meet debt and rent obligations. Strong anti-abuse provisions, including post-event audits, would be included. Senator Steve Daines (R-MT) has drafted a bill titled the "Workplace Recovery Act," which would establish a new government-funded business interruption insurance add-on for every privately administered commercial insurance plan to protect against future national pandemics. The plan would include:

1. Private insurers will conduct processing as part of their standard coverage.
2. Businesses will pay a small premium to cover transaction and processing fees.
3. The government will backstop all national crisis operating losses not covered by current plans.

Tariff Relief

U.S. companies continue to pay tariffs on a wide range of goods, resulting in urgent liquidity issues for businesses of all sizes. The administration's recent decision to defer the due date for certain duties and fees was a welcome step toward helping American companies stabilize their finances and buy time. However, due to the limited scope of the program, many companies are unable to defer their payments. To immediately free up billions of dollars of working capital for American companies, NRF recommends a variety of options for tariff relief:

1. The administration should temporarily waive customs duties on the import of COVID-19-related medical devices, protective equipment and cleaning supplies.
2. Extend the duty deferral program to cover imports during May and June and include all duties and fees.
3. Grant an automatic renewal of expiring China Section 301 tariff exclusions.

4. Refund tariffs paid to date.
5. Renew the Generalized System of Preferences Program.
6. Renew the Miscellaneous Trade Bill.

Pandemic Risk Insurance

NRF drafted and sent a letter to congressional leaders advocating for the "Pandemic Risk Insurance Act of 2020" (PRIA). Some of the most influential trade groups in Washington signed on, such as the U.S. Travel Association, the American Hotel and Lodging Association, and the National Restaurant Association. The PRIA effort in Congress is being led by Rep. Carolyn Maloney (D-NY) with the strong support of Rep. Maxine Waters (D-CA), the chair of the House Financial Services Committee. PRIA would mandate that businesses that demonstrate significant business interruption and sharp decline in present and future revenue would be insured through a pre-funded risk pool, in case of a pandemic or epidemic. The legislation would also:

1. Allow businesses to recoup lost revenue when large events are cancelled, thus resulting in substantial losses. PRIA would create a federal "backstop" (much like the Terrorism Risk Insurance Act (TRIA)), for insurance claims related to a pandemic that is certified by the Secretary of Treasury.
2. Provide a mechanism for immediate predictable economic recovery should the nation face another pandemic — even one of lesser magnitude than COVID-19.

Financial Aid for USPS

The U.S. Postal Service is more critical than ever to the nation's economy and infrastructure. Retailers of all sizes are relying on USPS to deliver goods to consumers in every zip code across America, especially as online sales increase in response to stay-at-home orders and government-mandated restrictions or closure of normal retail operations. Small businesses and rural communities are notably reliant on USPS; however, the agency has said it could run out of cash by September if emergency funding is not provided. NRF strongly supports supplying emergency funds to ensure USPS survives and remains accessible to the American people.

National Infrastructure Plan

NRF's members are among the country's largest shippers, moving hundreds of billions of dollars in merchandise through their supply chains, using America's transportation infrastructure — its seaports, airports, rail lines and highways. The condition of the U.S. freight transportation system is vital to American competitiveness, and especially the retail industry, which must be able to deliver goods to consumers at bricks-and-mortar stores or through direct-to-consumer options. The system in general is under significant pressure from the coronavirus pandemic which is affecting all aspects of the supply chain. The next coronavirus stimulus bill must include infrastructure investment, planning and efficiencies as a key part to help companies recover and remain competitive. To improve the condition and efficiency of the freight transportation system, an infrastructure package should include the following:

1. The coronavirus pandemic has magnified the nation's acute shortage of long-haul truck drivers. Their importance to our supply chains and overall economy is greater than ever, and we need more of them. The DRIVE-Safe Act would help alleviate this shortage by creating apprenticeship programs for young drivers, while at the same time providing well-paying jobs and a secure career path to the next generation of truck drivers.
2. The national twin trailer standard should be increased from 28 feet to 33 feet. This modest increase in trailer length will improve truck safety, efficiency and sustainability. Modernizing the

trucking equipment would lead to reduced congestion with no cost to the taxpayer, increased safety, maximized efficiency and increased environmental gains.