

June 8, 2021

## **Vote “No” on S. 1260 Until Burdensome, Duplicative COOL is Removed**

Dear Senators:

The undersigned food and agriculture industry associations write to urge you to vote “no” on S. 1260, the U.S Innovation and Competition Act, until the duplicative and burdensome *Country of Origin Labeling (COOL) Online Act* requirements are removed.

*The Country of Origin Labeling Online Act* would require online sellers to include country of origin information in product descriptions on their websites and online advertisements, reflecting the origin of the exact product the customer will receive (i.e., the exact carton of blueberries). As written, the *COOL Online Act* would be inconsistent with USDA’s existing COOL program and unworkable for agricultural producers, food manufacturers and grocery retailers. It would also likely trigger retaliatory tariffs on an array of products. **Therefore, we respectfully request you vote “No” on the U.S. Innovation and Competition Act unless the concerns of the agricultural and food supply chain are addressed to allow covered agricultural products to remain under the U.S. Department of Agriculture (USDA) and U.S. Customs and Border Protection (CBP)’s proven regulatory oversight.**

The legislation’s extension of COOL enforcement jurisdiction to the Federal Trade Commission (FTC) is unnecessary. For decades, the U.S. Department of Agriculture (USDA) and U.S. Customs and Border Protection (CBP) have effectively enforced COOL compliance under existing point-of-sale COOL labeling requirements with the agencies reporting nearly universal retailer and import compliance. USDA and CBP inspectors routinely monitor and inspect imports and retail operations under their existing authorities, and USDA also allows consumers to file complaints for alleged violations. Extending enforcement authority to the FTC is not only unnecessary, it is duplicative and confusing.

It is also unclear whether enactment of the *COOL Online Act* would trigger retaliatory tariffs available to important trading partners under an earlier World Trade Organization ruling and/or create a new non-tariff trade barrier. Only five years ago Congress amended the mandatory COOL provisions in the Agricultural Marketing Act of 1946 to exempt certain meat and pork products in response to four WTO rulings that nearly resulted in more than a billion dollars in retaliatory tariffs being levied on American products. Ironically, this bill could require some of those products offered for sale on the internet to provide origin labeling, not required of the same products when offered

in a retail store. Such a disjointed labeling scheme makes little sense and could undermine important trade relationships that create market opportunities for U.S. farmers.

The *COOL Online Act* could have negative consequences for food security across the nation. Congress has worked diligently throughout the years to strengthen federal nutrition programs, such as the Supplemental Nutrition Assistance Program (SNAP); this amendment would be a step in the wrong direction. USDA launched the SNAP online purchasing pilot program in 2019 and expanded it across the country in 2020 due to the COVID-19 pandemic. At a time when many SNAP customers are shopping from home and retailers are expanding their online offerings to allow the purchase of items using SNAP benefits, this amendment would create extremely significant extra costs for retailers participating in SNAP online purchasing as well as time delays to make extensive upgrades to **try** to be compliant; this would be particularly true for smaller companies.

We urge you to support your agricultural producers and food retailers and oppose this duplicative burden.

Respectfully submitted,

American Bakers Association  
American Frozen Foods Institute  
Consumer Brands Association  
FMI – The Food Industry Association  
Global Cold Chain Alliance  
International Dairy Foods Association  
National Cattlemen’s Beef Association  
National Confectioners Association  
National Grocers Association  
National Seasoning Manufacturers Association  
National Turkey Federation  
North American Meat Institute  
Peanut and Tree Nut Processors Association  
Produce Marketing Association  
SNAC International