



April 29, 2015

SUBMITTED VIA E-MAIL

The Honorable Fred Upton
Chairman
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Frank Pallone
Ranking Member
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Re: Representatives Barton and Eshoo TROL Act Amendments

Dear Chairman Upton and Ranking Member Pallone,

On behalf of the National Association of Convenience Stores (“NACS”), I strongly urge you and members of the Energy and Commerce Committee to support the amendments to the Targeting Rogue and Opaque Letters (“TROL”) Act of 2015 offered by Representative Joe Barton (R-TX) and Representative Anna Eshoo (D-CA) during today’s markup.

NACS is an international trade association composed of more than 2,200 retail member companies and more than 1,600 supplier companies doing business in nearly 50 countries. The convenience store industry is a critical component of the nation’s economy, operating approximately 150,000 stores across the United States. In 2013, the convenience store industry generated almost \$700 billion in total sales, representing approximately 2.5% of United States GDP. Yet, the convenience store industry is truly an industry of small businesses. Not only are the vast majority of branded outlets locally owned, more than 70 percent of the NACS’ total membership is composed of companies that operate ten stores or less, and more than 60 percent of the membership operates a single store.

Patent trolls present a serious and costly threat to the U.S. convenience store industry. NACS members receive numerous patent demand letters each year that threaten litigation should the recipient refuse to pay a licensing settlement fee. Since most convenience stores lack experience in patent litigation and rarely, if ever, have in-house (or outside) patent counsel, more often than not, it is cheaper for NACS members to settle a patent infringement claim rather than take it to court. Patent trolls understand and exploit this—often sending vague and threatening letters to convenience stores, which assert infringements claims that are not even based on a legitimate patent claim.

NACS appreciates the efforts of Chairman Upton and Chairman Burgess to tackle this serious problem, but remains concerned that the TROL Act does not go far enough to protect small business owners from these abusive demand letters.

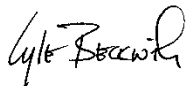
Both Representative Barton’s and Representative Eshoo’s separate amendments, which address the “bad faith” standard, would vastly improve the ability of the Federal Trade

Commission to enforce against fraudulent demand letters, and would strengthen the TROL Act significantly. In particular, both amendments would bring the TROL Act in line with existing consumer protection law.

It is imperative that Congress pass legislation that deals with abusive demand letters. In its current form, the TROL Act would not be an adequate vehicle for progress on this issue. Representative Barton's and Representative Eshoo's amendments would make real improvements to the bill.

NACS remains committed to working with the Committee to enhance the provisions in the TROL Act to ensure that it actually functions to protect convenience stores and other businesses that have been victimized by abusive patent trolls. Because both Representatives Barton's and Eshoo's amendments are important steps towards strengthening the bill, we urge you to support them.

Sincerely,

A handwritten signature in black ink, appearing to read "Lyle Beckwith". The signature is written in a cursive, slightly slanted style.

Lyle Beckwith
Senior Vice President, Government Relations

cc: Members of the House Energy and Commerce Committee