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September 20, 2017

The Honorable Pat Roberts
Chairman, Senate Agriculture Committee
328-A Russell Senate Office Building
Washington, D.C. 20515

The Honorable Debbie Stabenow
Ranking Member, Senate Agriculture Committee
328-A Russell Senate Office Building
Washington, D.C. 20515

Dear Chairman Roberts and Ranking Member Stabenow,

On behalf of the National Association of Convenience Stores (“NACS”) and the Society of Independent Gasoline Marketers of America (“SIGMA”)(hereinafter “the associations”),¹ we thank the Committee for holding the September 14th hearing entitled, “Nutrition Programs: Perspectives for the 2018 Farm Bill.” NACS’ and SIGMA’s members are valuable retail participants in the Supplemental Nutrition Assistance Program (“SNAP” or “the Program”). As the Committee moves forward to draft the 2018 Farm Bill, the associations hope to work with the Committee to strengthen the Program while ensuring that small format retailers continue to serve as valuable private sector partners. Towards this end, NACS and SIGMA respectfully submit this letter and request that it be placed into the record of the hearing.

Over 117,000 convenience stores – well over 75 percent of the nation’s approximately 154,000 convenience stores – participate in SNAP.² In fact, convenience stores represent approximately 45% of retail outlets that are authorized to accept SNAP benefits. NACS’ and SIGMA’s members provide consumers with convenient locations and extended hours, enabling SNAP beneficiaries to purchase a wide variety of food and beverage items that Congress has determined may be purchased with SNAP benefits. The associations’ members’ locations are often the only establishments easily accessible by walking or public transportation, or the only food retail locations open for business after a late work shift ends or before one begins. In fact, 51 percent of all Americans live *less than 1 mile* from a convenience store, and 94 percent of urban Americans and 60 percent of rural Americans live *less than 3 miles* from a convenience store.

¹ NACS is an international trade association representing the convenience store industry with more than 2,200 retailer and 1,600 supplier companies as members, the majority of whom are based in the United States. SIGMA represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel.

² Food and Nutrition Service, *Fiscal Year 2016 At a Glance*, <https://www.fns.usda.gov/sites/default/files/snap/2016-SNAP-Retailer-Management-Year-End-Summary.pdf>.

As the Committee is aware, in order for small format retailers, including convenience stores, to accept SNAP benefits, they must meet statutory “depth of stock” requirements that stipulate the number and types of food available for customers to purchase. The Agricultural Act of 2014 (“2014 Farm Bill”)³ expanded the depth of stock requirements, requiring retailers to offer at least seven different varieties of food items in each of the four staple food categories, including one perishable item in three of those categories. Members of the Committee spent long hours working to agree on those provisions so that they would balance the desire to increase food choices for SNAP beneficiaries with the goal of ensuring that SNAP beneficiaries would still be able to purchase food from small format retailers. NACS and SIGMA supported those provisions of the 2014 Farm Bill.

The proposed rule from the U.S. Department of Agriculture’s Food and Nutrition Service (FNS) implementing the 2014 Farm Bill’s more robust depth of stock provisions would have been disastrous for SNAP beneficiaries because it would have cut them off from tens of thousands of small format retail outlets. Thanks to the work of members of this Committee (including sending a strong bipartisan letter on the subject),⁴ USDA substantially improved its proposed rule before publishing a final rule in December 2016.⁵

The final rule, however, still raises a concern with its unrealistic definition of the term “variety.” Under the final rule, different items from the same species (e.g., sliced ham and bacon that both come from pigs) would only count as one variety of staple food product, meaning retailers would have to stock unusual and expensive items (such as duck or lamb) in order to have any chance to meet the depth of stock requirements in the meat category. This problem would create similar practical hurdles in the dairy category of staple foods as well. USDA’s odd definition would be very difficult for convenience stores, which receive new shipments one or two times each week on average and have limited space in which to display and store products, to meet.⁶ In addition, consumers in general – and SNAP beneficiaries in particular – do not shop at convenience stores to purchase unusual and expensive items, so the final rule will lead to increased food waste.

Since the final rule was released, Congress has directed FNS to expand the definition of “variety” so that small format retailers – including convenience stores – may continue to participate in SNAP.⁷ In light of this mandate, which delays implementation of the final rule until the definition of variety is revised, NACS and SIGMA urge lawmakers to avoid making any further changes to small format retailers’ SNAP eligibility requirements in the 2018 Farm Bill. The Committee should wait to learn how the eligibility changes in the 2014 Farm Bill affect the Program and SNAP beneficiaries before changing the requirements once again. Making more changes before the 2014 Farm Bill changes

³ Pub. L. 113-79, enacted Feb. 7, 2014.

⁴ See Bipartisan Senators Urge USDA to Revise SNAP Rule (Aug. 2, 2016), letter available at: <https://www.agriculture.senate.gov/newsroom/rep/press/release/bipartisan-senators-urge-usda-to-revise-snap-rule>.

⁵ U.S. Department of Agriculture, Food and Nutrition Service, Final Rule, Enhancing Retailer Standards in the Supplemental Nutrition Assistance Program (SNAP), 81 Fed. Reg. 90675 (Dec. 15, 2016), available at <https://www.gpo.gov/fdsys/pkg/FR-2016-12-15/pdf/2016-29837.pdf>.

⁶ NACS’ and SIGMA’s members’ stores are 2,900 square feet on average and have particularly limited space constraints to store refrigerated or frozen foods.

⁷ Section 765 of the Consolidated Appropriations Act, 2017, Pub. L. 115-31, enacted May 5, 2017.

are even implemented would be like trying to build a house before laying the foundation and would risk undercutting the goals that are trying to be achieved.

Another important SNAP concern relates to state contractors' recent efforts to introduce new processing fees for SNAP electronic benefits transactions. These fees have been barred from the Program for many years and that prohibition has served the Program, beneficiaries, and retailers well. There is no reason to introduce new fees now – particularly given that payment technology has improved and become cheaper. NACS and SIGMA are troubled by the potential for new fees because any fees on SNAP transactions will make it more costly for retailers of all stripes and their customers to participate in SNAP. SNAP benefits should be spent on food – not payment company fees.

As this Committee begins to draft the 2018 Farm Bill, the associations hope lawmakers will keep the Program's private sector partners, including small format retailers, in mind. Any provisions that result in the imposition of requirements that are too costly or burdensome for small format retailers may lead to those retailers leaving the Program. That, in turn, would hurt the vulnerable Americans who depend on such stores for access to food.

NACS and SIGMA thank this Committee for its work on this vital Program and look forward to working with lawmakers throughout the legislative process to enhance Program efficiency and integrity as well as expand food access for SNAP beneficiaries.

Respectfully,



Douglas S. Kantor
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