



## **FJATA NEWSLETTER**

### **December 2021 Edition**

#### **FTC BEGINS SUPPLY CHAIN DELAYS INVESTIGATION**



*A vacant lot renovated by Walmart to serve as a shipping yard near California's Twin Ports; picture shared by Walmart's EVP of supply chain operations*

The U.S. Federal Trade Commission (FTC) has begun investigating the recent disorder within the supply chain industry and has asked for any helpful information from nine major retailers, wholesalers, and consumer good suppliers: Walmart, Amazon, Kroger, C&S Wholesale Grocers, Associated Wholesale Grocers, McLane Co., Procter & Gamble, Tyson Foods, and Kraft Heinz. The FTC is giving the companies 45 days to respond and is confident this information will help reduce the ongoing hardships effecting this industry.

This study will allow analysts more room to find patterns and common business practices that may be leading to the disruptions. The FTC Chair Lina Khan remarks that her organization has done this in the past, the collection of data to further their knowledge of what is affecting the economy, and strongly believes this is an effective way to not just solve short-term issues but create a more successful industry. Khan and her team anticipate this study will also show where these disruptions have been most hurtful (bottlenecks, shortages, anticompetitive practices, or causing increase consumer prices).

Some of the informational being asked of the companies consist of:

- Specific primary issues that obstruct the ability to obtain, transport, and distribute products

- How these obstructions lead to delays, canceled orders, and increased costs and prices
- Which products and inputs are being most affected
- What changes have been and are being made in response
- How companies decide to allocate goods with limited supply
- Internal documents regarding the disruptions (strategies, pricing, marketing, sales volume, supplier and brand selection, and market shares)

The FTC is also seeking comments from others in the industry regarding their experience with the delays and specifically how it's affecting competition in the market.

As this study is conducted, some companies have already made substantial adaptations in their business, and they are fairly creative. Amazon has begun bringing in containers to the U.S. through hiring general cargo ships. Walmart has chartered their own ships and brings them to temporary container yards the company created to cut the delays occurring at major ports. The land was previously a vacant lot near the Los Angeles and Long Beach ports until Walmart rented, and it now serves to process over 500 containers a day. A port near Savannah has been reported doing this same thing in order to reduce their backlog.

## **INFORM ACT IS PUSHED AHEAD WITH AMAZON'S SUPPORT**

Senator Bill Cassidy's INFORM Consumers Act is expected to have an easy path through Congress after gaining the support of e-commerce leader Amazon. The Act is pushed with further confidence after the House and the Senate used identical language when discussing it. The INFORM Act will demand e-commerce platforms give identity verification and other additional information of sellers of high-volume. If enacted, the Act will be able to cut down on the sale and production of counterfeit goods.

Cassidy is also working on passing the Shop SAFE Act that will directly impact foreign e-commerce sellers by requiring them to accept personal jurisdiction in the U.S., allowing them to be served in a court of law, as well as requesting a screening for sellers who may be involved in counterfeiting goods.

Though Amazon's support of the INFORM has largely increased its probability of becoming a law, the Shop SAFE Act will likely take longer. Cassidy has stated he understands the long process of legislation and will maintain patience throughout due to the importance these Acts hold. At a business conference, Cassidy mentioned how despite the sale of online counterfeit goods only recently becoming a major issue, trade groups have been pushing for regulations since fake products were being sold at flea markets.

## **REESE'S LAW TO PROTECT KIDS FROM BUTTON BATTERIES**

A new law, titled Reese's Law, has been introduced into the legislative process as a response of the many deaths and injuries that have occurred from children swallowing batteries. Numerous children have been affected from this, including Reese Hamsmith, who died at 18 months after digesting a TV remote battery. This bill was introduced by bipartisan lawmakers in Reese's name, and strongly promoted by his mother who believes in this law's ability to reduce the preventable dangers of batteries, specifically button batteries.

If enacted, Reese's Law will create safety standards for products containing button cell or coin batteries enforced by the Consumer Product Safety Commission (CPSC). The main standards would require obvious warning labels on the products and ensure that the batteries are secure. Lawmakers also related this legislation to the dangers encountered with counterfeit products. Fake goods have no standardization and can often lead to similar dangers. The law stands to assist the CPSC to protect kids not only from batteries, but all unsafe products.

## **EPA FINAL RULING ON NEW USE CHEMICALS**

A final rule from the Environmental Protection Agency (EPA) has been issued to go into effect January 14<sup>th</sup>, 2022. This rule requires entities intending to import, manufacture, or process any of the 45 chemical substances for a significant new use must notify the EPA 90 days or more prior to this usage. There must be no activity of the new use until the EPA reviews and gives certain confirmation of the new use. All rules included in the Toxic Substances Control Act will stand and will need to be met as well.

## **NEW PRIVACY LAWS TO COME**

Recently, four comprehensive privacy laws have been introduced: California Consumer Privacy Act (CCPA), California Privacy Rights Act (CPRA), Virginia Consumer Data Protection Act (VCDPA), and Colorado Privacy Act (CPA). The CCPA has been in effect while the others will begin with the start of 2022. Each of these laws gives state residents additional rights concerning the collection and usage of their personal data through imposing new rules for businesses to abide by. The laws are similar in that being the main goal but differ in other aspects. Before authorizing the regulations, each of these differences will be viewed in detail and applied to specific entities. This allows for businesses and officials to see how the bills will affect business operations.

There have been numerous privacy bills introduced in 2021, most notably the Control Our Data Act which would be enacted nationally. This bill, formed by Republican members of the house Energy and Commerce Committee, was presented as a discussion draft in early November 2021. Similar to the VCDPA and CPA, the bill does not give the private right of action to consumers when violations occur. However, it is

focused on business transparency and requires businesses to minimize personal data collection, gain confirmative consumer consent before processing for transferring personal data, protect personal data by proving reasonable security, publish user friendly privacy policies, and perform an annual data impact assessment.

The Act refers to covered data, which is a broad term meaning any information that can be identified, linked, or reasonable linked to a person. Within this legislation consumers the rights to access, delete, correct, and transfer their covered data, as well as opting out of collection, processing, or transferring. Covered data is not extended to aggregated data, employee data, publicly available, and deidentified data. Also, data from consumers between 13 and 16 years old is not able to be processes or transferred unless parental consent is expresses and the business acknowledges the age.

There is huge benefit to implementing these privacy laws. Consumers will feel more confident in the marketplace knowing their interests are being represented, and their loyalty to a business will not be used against them. Many businesses agree, but are urging officials, especially when establishing a national standard, to introduce legislation similar to those already in action such as the CCPA. Also, they oppose the idea of consumer's holding the private right of action, and instead suggest central federal agencies to have stronger enforcement.

## **NEW LAW TO BAN ALL GOODS IMPORTED FROM XINJIANG**

On December 23<sup>rd</sup>, President Biden signed into law the Uyghur Forced Labor Prevention Act (UFLPA) which will, starting June 21<sup>st</sup>, 2022, declare any goods made wholly or in part from the Xinjiang Uyghur Autonomous Regin (XUAR) in China as produced by forced labor, effectively banning them from the U.S. All imports made partially or in full from this region will be illegal, including goods not shipped directly from China but have had been contributed to in XUAR.

Products from XUAR are only allowed to the U.S. if one or more of the following requirements are met. This would be confirmed by the CBP. Goods confirmed as not being made by forced labor will listed and published.

1. If the importer has fully complied with the guidance and regulations provided by the CBP
2. If the importer has properly abided to giving full and accurate information asked from the CBP regarding how the goods were produced
3. If the importer can give clear and convincing evidence that the goods were not made by forced labor, whole or in part.

Also, the Forced Labor Enforcement Task Force will work to develop systems and methods to stop the forced labor in XUAR. This will focus mainly on entities in XUAR conducting forced labor, entities helping them through transport, recruitment, etc., the products made in result, entities transporting these products, and entities sourcing materials from XUAR.

The Task Force, under instruction by the UFLPA, will give guidance to importers in how to navigate the potential changes they may be facing. There will be information on how importers can track their supply chain to properly ensure their products are not affiliated to forced labor, as well as a clear definition on what is and is not acceptable proof of origin and proof of legal production. International trade consultations at Sandler, Travis & Rosenberg, P.A. (STR) have created a program to assist companies in examining their supply chain visibility, and gather the information needed to prove their disinvolvement in forced labor.

Public comment for the Task Force will be open until January 24<sup>th</sup>, followed by a mandatory public hearing that will be held 45 days after the comments are closed. The State Department will then submit their discussed strategy in a report to Congress by March 23<sup>rd</sup>. The report will address the forced labor of XUAR along with entities that have been affiliated with or of assistance in the continuation of it. The Task Force will submit a finalized strategy by June 21<sup>st</sup>, 2022.

## **\$3M IN COUNTERFEIT JEWELRY AND SCARVES SEIZED IN CINCINNATI**

The Cincinnati CBP seized 1,830 scarves, bracelets, rings, and earrings that, had they been genuine, would have been sold for \$3.09 million. The bust was made November 30<sup>th</sup> and involved fake designer goods from Louis Vuitton, Gucci, Cartier, Hermes, Versace, and Chanel.

The CBP inspected the goods after noticing peculiar packaging, and the poor quality goods were confirmation that an investigation was needed. The products were from China going to a residence in Flushing, New York.

## **LEGISLATIVE STATUS**

Click [here](#) to view a list of bills affecting our industry and any action that has occurred.



**Our Mission** - We continue our leadership role in legislative issues and advancing internationally recognized, sensible standards for the jewelry and accessories industries on behalf of our members.

*Thanks for reading.* Have any questions? Email us at [executive\\_director@fjata.org](mailto:executive_director@fjata.org).

### **The Executive Committee**

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