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March 8, 2021

Dear Representative:

The Direct Selling Association (DSA) appreciates the intent of H.R. 842, *the Protecting the Right to Organize Act* to bolster the middle class and champion the rights of workers. DSA respectfully opposes the bill because it contains damaging changes that could undermine the flexibility of direct sellers to operate their businesses.

DSA is the national trade association for companies that market products and services directly to consumers through an independent, entrepreneurial salesforce. In 2019, direct selling took place in all 50 states in the United States, generating \$35.2 billion in retail sales. More than six million entrepreneurs in the U.S. sold products or services through the direct selling channel.

In 2020 we are forecasting growth of 2%-5% for the industry. Much of that can be attributed to the flexible earning opportunities direct selling provides. A direct seller's compensation is based on commissions for products and services sold—they do not have territories, quotas, or mandatory hours worked. 90% of the salesforce is part-time.

Fifty-nine percent of direct sellers cite flexibility as a reason for joining, and 61% cite flexibility as a reason they're staying in direct selling. In recent DSA research, 77% of Americans said they are interested in flexible, entrepreneurial income-earning opportunities and 79% see direct selling as an attractive option for entrepreneurial opportunities.

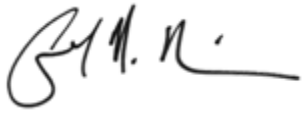
We are concerned with the new amended definition of employee in Section 101 that would dramatically narrow the opportunities for direct sellers. By adopting the restrictive "ABC" test for independent contractors, the legislation would do more harm than good by reducing flexibility for those who prioritize the benefits of creating their own schedule.

Independent salesforce members for direct selling companies have an active voice. They make the companies thrive. The precedential impact of inserting the "ABC" test into the NLRA is harmful and could have impacts on other statutes, such as the Fair Labor Standards Act (FLSA).

Last Congress, a bi-partisan group of legislators co-sponsored H.R. 3522, which would have made clear that direct sellers were independent contractors under the FLSA. The PRO Act undermines those efforts and the flexibility of direct sellers.

We commend the efforts to create an economy that works for all stakeholders but urge you to oppose H.R. 842 and its approach to independent work.

Sincerely,

A handwritten signature in black ink, appearing to read "J.N.M.", with a long horizontal stroke extending to the right.

Joseph N. Mariano  
President  
Direct Selling Association