



April 9, 2020

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Kevin McCarthy
Republican Leader
United States House of Representatives
Washington, D.C. 20515

The Honorable Chuck Schumer
Democratic Leader
United States Senate
Washington, D.C. 20510

Dear Speaker Pelosi and Leaders McConnell, McCarthy, and Schumer:

The National Restaurant Association and our members thank you for your steadfast leadership and bipartisan efforts to address the economic impact to our nation's restaurants caused by mandated shutdowns as a result of the COVID-19 pandemic.

On March 18 we wrote to warn that this pandemic will have a particularly damaging impact on America's one million restaurants, with losses of up to seven million jobs and \$225 billion in revenue within three months. We are continuing to assess the impact, but can tell you it is simply devastating. In just the first three weeks of the shutdowns to our industry, three million jobs have been lost, and fifteen percent of America's restaurants have permanently closed or are likely to in the next two weeks. We project March and April revenue losses to approach \$100 billion.

Congress responded by creating the Paycheck Protection Program (PPP), enabling hundreds of thousands of restaurants to access a unique loan from the Small Business Administration with a mechanism by which the loan can be forgiven by the federal government. The premise of the PPP is an important first step for restaurants surviving this crisis, but there are warning signs that it is not providing the relief that is so desperately needed for our industry.

The PPP is funded at \$349 billion, and we expect that lenders will reach that ceiling shortly. We appreciate the bipartisan calls this week to provide prompt additional funding for the program, and urge you to reach an agreement quickly to allow its continued utilization at the largest level possible.

However, equally important is the need to address the limitations of the program that do not recognize the unique and evolving challenges of the restaurant business cycle and our path to recovery. A growing number of restaurant owners are concluding that the PPP is not going to prevent them from permanently closing operations in local communities. We urge you to take the opportunity to address needed corrections to bolster the program's success.

Congress should enact the following changes to PPP:

Revise Loan Restrictions In Light of Industry Realities: In order to achieve forgiveness, the Department of the Treasury mandated that 75% of the PPP loan must be spent on payroll. In an industry currently operating with skeleton staffs – if at all – this limits the benefit to restaurant owners. Some operators spend as much as 50% of their monthly expenses on lease or mortgage obligations. This mandate must be altered to a lower percentage of no more than 50% spent on payroll.

Provide Flexibility in Timing for Restaurants to Use PPP Loans: The “covered period” of the PPP requires that restaurants use the loan within roughly eight weeks of its origination. The growing reality is that many restaurants will be nowhere near full operating capacity within that time. Allowing loans to be retained until a full reopening takes place will stabilize the business and ensure that millions of restaurant employees stay employed for the long term. Specifically, the outside rehire date should be changed to at least 90 days from when they are allowed to fully reopen, which would allow for a ramp-up period back to some kind of normal business cycle. Finally, the PPP should be extended through December 2020, with an adequate appropriation and an extended hiring window for restaurants to rehire full-time equivalent employees. This allows a ramp-up period that returns to something approaching a normal business cycle.

Ensure Loan Terms Match Congressional Intent: The legislative text of the PPP clearly allows loans to have up to a 10-year maturity date, yet the Department of the Treasury has mandated that loans have only a two-year term. Our industry has a very long, uncertain path to recovery by virtue of state-mandated closures and the long-term effects of social distancing. The terms should reflect the reality that recovery for the us will take far longer than two years.

Exemptions from Loan Forgiveness Reduction: Congress should re-emphasize that the SBA Administrator and the Secretary of the Treasury can act on their explicit “de minimis” exemption authority under PPP in order to protect businesses that face reductions in loan forgiveness, especially if businesses have major declines in sales revenue. Employee retention levels will be a continued challenge for restaurants, as many have changed their business model to accommodate off-premise and online ordering, decreasing the need for servers and other workers. Additionally, sustained social distancing protocols will alter restaurant operations, which will reduce revenue opportunities and staffing levels.

Ensure that 501(c)(6) Nonprofit Organizations Can Participate in PPP: We urge the Congress to include 501(c)(6) organizations in the definition of an eligible nonprofit under the PPP. The critical function of State Restaurant Associations is more evident than ever, as restaurants across the nation rely on them for guidance and assistance at the state and local level. Additionally, Destination Marketing Organizations are critical to promoting local tourism and a strong economy for local communities. Both of these vital organizations are currently ineligible to participate in the PPP and face tremendous economic damage as the restaurant and hospitality industries suffer.

Deferral of Certain Tax Payments to Provide Liquidity: Businesses utilizing the PPP and seeking loan forgiveness must be allowed to defer payroll taxes owed this year to the next two years, as provided under Section 2302 of the CARES Act.

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In addition, we urge you to consider two changes to programs outside of the PPP:

Improve Access to Economic Injury Disaster Loans (EIDL): Restaurants are utilizing the EIDL program in light of the disaster-level economic consequences for our industry. Barriers like the personal guarantee and collateral requirements for EIDLs should be removed so that employers and employees can utilize this liquidity immediately. Additionally, restaurants should be able to access a second EIDL during this crisis considering the unique, prolonged disaster it will have on our industry.

Improve the Employee Retention Tax Credit (ERTC): The ERTC must be amplified to ensure more businesses can retain employees during government-ordered shutdowns by states and social distancing protocols issued by the federal government. Specifically, Congress must increase the maximum wages allowed for the credit, under Section 2301(b)(1) of the CARES Act, to \$20,000 per quarter; allow taxpayers to claim the credit against payroll tax deposits rather than payroll tax liability; and allow restaurants with over 100 employees to utilize the credit for employees who are still performing limited services.

The severity of this pandemic has made it clear that restaurants will remain closed – or severely curtailed in service – for far longer than originally anticipated. Once “normal” operations resume, virtually every restaurant in this country, from the favorite diner to the local icon, will be a virtual startup in desperate need of cash. Our industry and its 15.6 million employees deserve a unique response from Congress, and we look forward to providing that perspective in a future letter as you develop a “Phase IV” legislative package.

Thank you again for your engagement on behalf of the restaurant industry, and we look forward to our continued work together.

Sincerely,



Sean Kennedy
Executive Vice President, Public Affairs