



Promoting Innovation Worldwide

February 23, 2022

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

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

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

The Honorable Kevin McCarthy  
Minority Leader, House of Representatives  
Washington, D.C. 20515

Dear Majority Leader Schumer, Speaker Pelosi, Minority Leader McConnell, and Minority Leader McCarthy:

On behalf of the members of the Information Technology Industry Council (ITI), I write to express our strong support for the *U.S. Innovation and Competition Act (USICA)*, the *America Creating Opportunities for Manufacturing Pre-Eminence in Technology and Economic Strength (COMPETES) Act*, and the bicameral agreement to bring the bills to a conference between the House and Senate. ITI represents eighty of the United States' and world's leading information and communications technology companies from all corners of the technology sector, including hardware, software, digital services, semiconductor, network equipment, internet, and other technology-enabled companies. This legislation is critical to the technology sector and U.S. innovation leadership across all industries. We applaud the work and leadership that has gone into assembling bills in the House and Senate. We respectfully request your consideration of our views on several key provisions in the *USICA/COMPETES* conference.

***CHIPS for America Act Funding and Semiconductor Investment Tax Credit***

Of utmost importance to our industry, and indeed to the entire economy, is the inclusion of funding for the investment in the *Creating Helpful Incentives for the Production of Semiconductors (CHIPS) for America Act*. ITI member companies produce, design, and rely upon semiconductors to innovate, manufacture, and provide products and services to American consumers, businesses, and the U.S. government. We urge you to preserve in conference the full \$52 billion included in both the Senate and House-passed bills. Global demand for semiconductors is outpacing both supply and manufacturing capacity, resulting in sectors across our economy facing a shortage of this foundational hardware. With demand for chip-enabled products now skyrocketing, an unprecedented shortage of chips could slow the U.S. economic recovery while also risking immediate interruptions to critical services like distance learning, telework, and healthcare delivery. This robust funding is essential for U.S. national security, economic well-being, and technological leadership because it will foster the research and development of cutting-edge technology and boost domestic semiconductor production across all nodes for this technology, which is an essential building block for everything from 5G and artificial intelligence to supercomputers to motor vehicles and clean energy. Moreover, addressing the semiconductor manufacturing and supply crisis necessitates swift implementation of *CHIPS for America Act* programs. To that end, we encourage lawmakers to avoid changing provisions in the law as enacted in ways that would disincentivize private investment in the U.S. and encourage companies to take advantage of public investment opportunities offered by other governments – undermining the

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very goal of the *CHIPS for America Act* of bringing manufacturing back to the United States. Accordingly, we have concerns about the addition of new mandates added in the *America COMPETES Act* around stock buy backs and restrictions on dividend payments, which will be unworkable in practice, unfairly penalize a handful of companies, and would slow implementation of this critically needed initiative.

In addition, we urge you to include a permanent 25% investment tax credit for semiconductor manufacturing, design, and research. Together with the grant program provided in the *CHIPS Act*, a 25% investment tax credit is critical to ensuring the United States is a competitive investment destination vis-à-vis global partners and competitors who have robust incentives of their own. The grant program will provide up-front funding for the construction or expansion of fabs, while the investment tax credit will support ongoing, long-term incentives for new or upgraded fabs and research facilities. A permanent investment tax credit that addresses manufacturing and design research and development (R&D) will also make the American workforce more globally competitive. The investment tax credit and the grant program together will allow continuous upgrades to keep up with evolving technology and spreading the benefits of investment in semiconductors to additional states and localities. Additionally, to ensure U.S. competitiveness and innovation, we urge you to include a delay in the requirement to amortize R&D expenses and allow companies to continue to be able to deduct R&D expenses in the year they occur.

#### ***Public Wireless Supply Chain Innovation Fund***

Importantly, we support the \$1.5 billion for the Public Wireless Supply Chain Innovation Fund included in both the Senate and House-passed bills. This funding will provide a down payment towards developing next-generation mobile broadband technologies by supporting the deployment of 5G and next-generation network hardware and software utilizing Open RAN architecture and accelerating the adoption of open interface 5G equipment. This program represents a unique opportunity to demonstrate applications and use cases in key areas including advanced manufacturing, autonomous vehicles, smart cities, healthcare, public safety, and precision agriculture.

#### ***Supply Chain Resiliency***

Further, we support the measures *USICA* and *America COMPETES* would take to address supply chain resilience, particularly the creation of the new Supply Chain Resilience and Crisis Response Office at the Department of Commerce and robust funding of the new Supply Chain Resilience Fund. The \$45 billion authorized in the *America COMPETES Act* could be used to bolster a more dynamic U.S. electronics ecosystem and leverage the *CHIPS* semiconductor investments. Government and industry must work together to achieve the trusted, secure, and reliable global supply chains that are essential for protecting national security and promoting an indispensable foundation for supporting innovation and economic growth. To that end, we appreciate the legislation's effort to task the Department of Commerce to work with the private sector to identify and mitigate supply chain vulnerabilities. We encourage conferees to ensure that any final language is consistent with the ongoing work of Executive Order 14017, *America's Supply Chains*.

## ***Research & Development, Standards, and Cybersecurity***

ITI also strongly supports the legislation's increased commitment to tech-focused R&D and manufacturing at agencies including the National Science Foundation (NSF), Department of Energy National Labs, the National Institute of Standards and Technology (NIST), and through the Manufacturing USA program. These provisions are critical for expanding America's technology leadership and strengthening our national innovation ecosystem. The bill should remain appropriately focused on translating new research into commercialized technology, high-tech jobs and new firms in communities across the country, ensuring that the benefits of these investments are broadly shared across the United States. In addition, we urge that any provisions on standards-setting in the final conference bill reiterate strong support for the well-established model of voluntary, industry-led standards development that has contributed to U.S. technological leadership. Proposals that would seek to interfere with industry-led standards setting or to impose requirements on standards setting organizations would harm U.S. competitiveness and should not be included in any final bill. We also have concerns about a requirement in the *America COMPETES Act* that contractors submitting bids to the U.S. Department of Homeland Security provide a software bills of material (SBOM), which is premature as SBOM is not yet widely practiced and it is too soon to actually identify it as a best practice sufficient to form the basis of a new acquisition requirement. Such a requirement also has the potential to conflict with efforts being undertaken pursuant to Executive Order 14028, Improving the Nation's Cybersecurity, and the Paperwork Reduction Act.

## ***STEM and Workforce***

Investments in STEM and workforce development are another critical component of the legislation's strategy to enhance U.S. competitiveness. Better equipping students and workers for jobs in key technology fields is essential to building a diverse and ready workforce. Particularly, we support programs that improve access to educational opportunities in STEM and computer science and enhance the capacity of Minority Serving Institutions (MSIs) and Historically Black Colleges and Universities (HBCUs) to train the next generation of workers, especially those from traditionally underrepresented populations, for future-proof jobs in the technology sector. ITI also supports investments in "earn and learn" programs like apprenticeships that will help fill existing opportunity gaps and provide new pathways for Americans to find fulfilling, good-paying careers.

In addition, we are pleased the *America COMPETES Act* recognizes the importance of immigration reforms for workers in STEM fields, which will expand our ability to attract and retain talent. Specifically, we strongly support the bill's provisions that would exempt certain doctoral and master's degree STEM students, and their spouses and children, from employment-based green card limits. We also support provisions that would allow STEM postgraduate students to declare their dual intent to apply for a green card while residing and studying in the U.S. We urge you to preserve those provisions in conference.

## ***Trade***

We further urge the inclusion of trade provisions that promote market access, particularly those that expand the acceptance of strong, inclusive digital trade commitments. The United States is a leader in developing and deploying digital technologies that support a large and growing segment of American exports, jobs, and economic growth. We support provisions in the Senate-

passed bill that promote U.S. digital trade and provide for a consistent and transparent tariff exclusions process. We have significant concerns, however, about a provision in the Senate-passed *USICA* that would mandate Country of Origin Online labeling, which creates unfeasible new requirements for anyone who sells goods online and urge the removal of this language in conference.

There are several provisions in the *America COMPETES Act* that we believe ultimately undermine the legislation's goal of increasing U.S. competitiveness and easing supply chain challenges. First, the requirement for new outbound investment review would hinder U.S. businesses' ability to grow and expand into global markets. This new interagency review would be duplicative of existing requirements and authorities in both the Foreign Investment Risk Review Modernization Act (FIRRMA) and the Export Control Reform Act (ECRA), creating a redundant process at the Office of the U.S. Trade Representative (USTR) which the agency is ill-equipped to undertake and will create profound uncertainty for U.S. businesses. Second, we are strongly opposed to the inclusion of the *Import Security and Fairness Act* which would create new restrictions on the use of the *de minimis* threshold. This would exacerbate supply chain disruptions at U.S. ports of entry and impose significant costs on U.S. workers, consumers, and businesses, including small enterprises. Third, the changes to antidumping and countervailing duty laws in the *Eliminating Global Market Distortions to Protect American Jobs Act* in the *America COMPETES Act* could raise costs on a large swath of imports. By lowering the threshold for petitioners via successive investigations the bill could increase tariffs and unnecessarily extend the reach of duties to goods beyond the initial producers and countries at issue. We urge the removal of all of these provisions from any final bill.

#### ***E-Waste***

Finally, we urge the removal of a new export control for e-waste which would create a major impediment to U.S. technology sector exports and ultimately undermine key environmental and circular economy goals. If enacted, this provision from the *America COMPETES Act* would ban the export of electronics waste or used products that are not fully functional. It would also prevent the export of used components which are sold to global customers who complete the recycling process by building them into new systems. Maintenance of products, via the use of used and refurbished products and parts is the highest form of environmental stewardship of e-waste and the end result of this provision could actually cripple environmental goals.

Thank you for your consideration of our views. We hope Congress will seize this historic opportunity to enact meaningful legislation to enhance U.S. competitiveness and stand ready to work with you to further this important effort.

Sincerely,



Jason Oxman  
President and Chief Executive Officer  
Information Technology Industry Council (ITI)