



March 3, 2020

Hon. Jan Schakowsky, Chair  
Consumer Protection and Commerce  
Subcommittee  
House Committee on Energy & Commerce  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Hon. Cathy McMorris Rodgers, Ranking Member  
Consumer Protection and Commerce  
Subcommittee  
House Committee on Energy & Commerce  
2322 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chair Schakowsky and Ranking Member McMorris Rodgers:

Internet Association<sup>1</sup> (IA) welcomes the opportunity to submit this letter for the record as part of the Committee's March 4 hearing: "*Buyer Beware: Fake and Unsafe Products on Online Marketplaces.*"

Internet-based businesses take protecting consumers from counterfeit goods seriously and work to enable brands to protect their intellectual property. IA member companies have taken the lead by implementing clear policies, proactively partnering with enforcement entities, and creating transparent and innovative counterfeit reporting and prevention tools that allow third parties to identify and remove counterfeit items listed for sale on their platforms in a timely manner.

IA represents over 40 of the world's leading internet companies. IA is the only trade association that exclusively represents leading global internet companies on matters of public policy. IA's mission is to foster innovation, promote economic growth, and empower people through the free and open internet. The internet creates unprecedented benefits for society, and as the voice of the world's leading internet companies, we ensure stakeholders understand these benefits.

In the last two decades, U.S. internet platforms have become a significant driver of the U.S. economy. The internet industry represents an estimated 6 percent of U.S. GDP, totaling nearly \$967 billion, and accounts for nearly 3 million American jobs. Since the mid-90s consumers have increasingly been shopping online. In 2017, an estimated 1.66 billion people worldwide purchased goods online. During the same year, global e-retail sales amounted to \$2.3 trillion and projections show a growth of up to \$4.48 trillion by 2021.<sup>2</sup> It is estimated that about 80 percent of internet users in the U.S. are expected to make at least one purchase online during the calendar year in 2019.<sup>3</sup>

Internet platforms facilitate growth for the rest of the economy. Businesses of all sizes have embraced internet platforms to effectively and efficiently sell their goods and services. Buyers and sellers from around the globe are now connected instantaneously through internet platforms. Small businesses and entrepreneurs are harnessing the power of the internet to reach new markets, connect with new customers, and increase their productivity. The internet is also having a dramatic impact outside the internet industry. A recent study found that more than 75 percent of the economic value created by the internet is captured by companies in traditional industries, many of them small businesses.<sup>4</sup>

Unfortunately, a small percentage of bad actors misuse online services to offer counterfeit goods. While reports vary on the number of counterfeit goods sold, the platforms that facilitate online sales are working to ensure consumers can feel safe buying online. The following are a few examples of some of the transparent and innovative practices that internet companies have implemented.

<sup>1</sup><https://internetassociation.org/our-members/>

<sup>2</sup><https://www.forbes.com/sites/ninaangelovska/2019/05/20/top-5-online-retailers-electronics-and-media-is-the-star-of-e-commerce-worldwide/>

<sup>3</sup> <https://www.pewresearch.org/fact-tank/2019/07/25/americans-going-online-almost-constantly/>

<sup>4</sup> <https://www.mckinsey.com/industries/high-tech/our-insights/internet-matters>



As threats against consumers and rights holders evolve, eBay continuously seeks to improve its efforts to fight against counterfeiters and bad actors. eBay invests millions of dollars annually to fight unlawful listings, proactively deploying sophisticated technologies and investing heavily in partnerships with rights holders and governments across the globe in order to help protect consumers and support rights holders against bad actors. eBay partners with more than 40,000 rights holders through its Verified Rights Owner (VeRO) program, which allows rights holders to quickly and easily report instances of alleged intellectual property infringement.<sup>5</sup> eBay also works closely with governments and law enforcement around the globe to help ensure the safety of consumers and protect rights holders.

In addition to the above-mentioned partnerships, eBay has multiple teams and tools in place focused on enforcing its policies and proactively identifying and addressing any generally suspicious or potentially harmful seller behavior. These efforts help eBay flag potentially problematic sellers, including sellers of counterfeit goods, and remove them or prevent them from obtaining an eBay account in the first place. eBay's policies, teams, partnerships, and tools help create a global commerce platform that enables sellers, including hundreds of thousands of American entrepreneurs and small businesses, to sell their inventory, and buyers to find and purchase items, virtually anytime and anywhere. eBay's core purpose, since its founding in 1995, is to safely connect buyers and sellers through its marketplace and help American entrepreneurs, including small and micro-businesses, reach markets around the world. eBay's commitments to consumer safety and rights owner protection are longstanding, and are at the center of its corporate values.

Etsy has also made addressing intellectual property infringement a priority. Etsy's Legal Response and Enforcement team reviews and responds to notices of alleged infringement on its site. In 2018, Etsy processed 27,023 properly submitted takedown notices, disabling access to 404,640 listings from 91,381 sellers, and closing 6,775 shops for repeat infringement. When a shop on Etsy is closed for infringement, this termination also applies to any other shop Etsy considers to be related to the seller, including attempts to open new shops. Of all of the sellers whose shop content was taken down by intellectual property takedowns, 70 percent were in North America, 20 percent in Europe, and 6 percent in Asia. Despite seeing a 71 percent increase in intellectual property takedowns from 2017, Etsy continues to take appropriate action expeditiously.<sup>6</sup>

Amazon strictly prohibits the sale of counterfeit products, invests heavily in prevention, and takes proactive steps to drive the number of counterfeits offered in Amazon's online stores to zero. In 2019, Amazon's proactive efforts successfully prevented over 2.5 million suspected bad actor accounts from offering a single product for sale in their stores, blocked over 6 billion suspected bad listings from being published on its stores, and blocked and suppressed more than 100 million suspected fake reviews. Its efforts have also ensured that 99.9% of all Amazon page views by customers landed on pages that have never received a valid counterfeit-related complaint from rights owners or other customers Amazon investigates every claim of potential counterfeit thoroughly, and in the rare instance where a bad actor gets through, Amazon takes swift action, including removing the allegedly infringing items, permanently banning bad actors, pursuing legal action, and working with law enforcement when appropriate.

Furthermore, in 2017, Amazon launched Brand Registry, a free service that gives rights holders advanced tools to protect their brands. More than 350,000 brands are enrolled in Brand Registry, and those brands are finding and reporting 99 percent fewer suspected infringements than before the launch of Brand Registry.<sup>7</sup> In 2018, Amazon launched Transparency, which effectively eliminates counterfeits for enrolled products. This service relies on unit-level serialization, where brands apply a unique 2D code (similar to a QR code) to every unit they manufacture, allowing Amazon, other retailers, law enforcement, and customers to determine the authenticity of each unit of that product in the supply

<sup>5</sup> <https://pages.ebay.com/seller-center/listing-and-marketing/verified-rights-owner-program.html>

<sup>6</sup> [https://extfiles.etsy.com/advocacy/Etsy\\_2018\\_Transparency\\_Report.pdf](https://extfiles.etsy.com/advocacy/Etsy_2018_Transparency_Report.pdf)

<sup>7</sup> <https://brandservices.amazon.com/>



chain. Since Transparency’s launch in 2018, over 7,500 brands have enrolled, protecting over 25,000 products, and preventing over 400,000 counterfeits from being sold. In 2019, Amazon announced Project Zero, a new program that empowers brands to help Amazon drive counterfeits to zero by combining Amazon’s advanced technology with the sophisticated knowledge that brands have of their own intellectual property, including how best to detect counterfeits of their products.<sup>8</sup> In short, Amazon’s policies and innovative tools help buyers can feel confident in their purchases on Amazon stores.

Facebook and Instagram have built numerous measures to combat counterfeits on their platforms – in close collaboration with rights holders, and in a manner consistent with the terms and policies prohibiting users from posting content that infringes IP rights on their sites. As part of its commitment to making its platforms safer for people and businesses to connect, share, buy and sell; Facebook has initiated a new centralized website<sup>9</sup> and it has established dedicated channels for rights holders to report infringing content, including a specific counterfeit channel. Reports of alleged infringement are handled by a global IP Operations team that provides around-the-clock multilingual coverage, promptly removing reported content, often within minutes. Facebook’s Commerce & Ads IP Tool goes further, offering rights holders a dashboard they can use to easily search for and report ads, Marketplace posts, and group sale posts they believe infringe their IP rights.<sup>10</sup> The tool, built in large part based on feedback from rights holders, provides unique functionalities like searching Marketplace globally and searching all currently active ads by keyword. Facebook maintains expansive repeat infringer policies aimed at profiles, pages, and groups on Facebook, along with accounts on Instagram. Facebook has also launched several other proactive measures that target counterfeits including reviewing ads and Marketplace posts before they go live, and using technologies to identify suspicious indicators like keywords, discounts, and so on. Ads and Marketplace posts flagged by these signals are blocked from Facebook and Instagram altogether.

Internet platforms have created close relationships with law enforcement to combat counterfeit goods, including active engagement with U.S. Customs and Border Protection, the National Intellectual Property Rights Center, under the Department of Homeland Security, and other federal and state enforcement agencies. Platforms regularly report misconduct and help in supporting ongoing investigations, and several have proactively created training programs to ensure that law enforcement officials understand how the platforms work, and to provide information about evolving internet-based investigative techniques, and other emerging trends. IA member companies also encourage users to report illegal activities to appropriate authorities and have created links to facilitate such reporting.

Innovative prevention and reporting tools created by internet companies and effective partnership with law enforcement and rights holders are vital to addressing the risks posed by counterfeit goods. IA appreciates the opportunity to provide comments on behalf of its member companies and highlight some of the proactive policies these companies have implemented. Internet Association looks forward to continuing to engage with the Committee on these matters in the future.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jonathan Berroya'.

Jonathan Berroya  
Interim President & CEO  
Internet Association

<sup>8</sup> <https://brandservices.amazon.com/projectzero>

<sup>9</sup> <https://www.facebook.com/business/tools/anti-counterfeiting/guide>

<sup>10</sup> <https://www.facebook.com/help/contact/423912757973851>