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1 NEAL R. GROSS & CO., INC.

2 RPTS WOJACK

3 HIF064170

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6 BUYER BEWARE: FAKE AND UNSAFE

7 PRODUCTS ON ONLINE MARKETPLACES

8 WEDNESDAY, MARCH 4, 2020

9 House of Representatives

10 Subcommittee on Consumer Protection and

11 Commerce

12 Committee on Energy and Commerce

13 Washington, D.C.

14

15

16

17 The subcommittee met, pursuant to call, at 10:00 a.m.,

18 in Room 2123 Rayburn House Office Building, Hon. Janice

19 Schakowsky [chairwoman of the subcommittee] presiding.

20 \*Members present: Representatives Schakowsky, Castor,

21 Veasey, Kelly, O'Halleran, Lujan, Cardenas, Blunt Rochester,

22 Soto, Rush, Matsui, McNerney, Dingell, Pallone (ex officio),

23 Rodgers, Upton, Burgess, Latta, Guthrie, Bucshon, Hudson,

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24 Carter, Gianforte, and Walden (ex officio).

25

26

27 \*Staff present: Mohammad Aslami, Counsel; Kevin Barstow,  
28 Chief Oversight Counsel; Billy Benjamin, Systems  
29 Administrator; Jacquelyn Bolen, Professional Staff; Jesseca  
30 Boyer, Professional Staff Member; AJ Brown, Counsel; Jeff  
31 Carroll, Staff Director; Jacqueline Cohen, Chief Environment  
32 Counsel; Sharon Davis, Chief Clerk; Luis Domingues, Health  
33 Fellow; Jennifer Epperson, FCC Detailee; Elizabeth Ertel,  
34 Office Manager; Adam Fischer, Policy Analyst; Jean Fruci,  
35 Energy and Environment Policy Advisor; Evan Gilbert, Press  
36 Assistant; Lisa Goldman, Counsel; Waverly Gordon, Deputy  
37 Chief Counsel; Tiffany Guarascio, Deputy Staff Director;  
38 Caitlin Haberman, Professional Staff Member; Alex Hoehn-  
39 Saric, Chief Counsel, C&T; Megan Howard, FDA Detailee; Zach  
40 Kahan, Outreach and Member Service Coordinator; Rick Kessler,  
41 Senior Advisor and Staff Directory, Energy and Environment;  
42 Saha Khaterzai, Professional Staff Member; Chris Knauer,  
43 Oversight Staff Director; Brendan Larkin, Policy Coordinator;  
44 Una Lee, Senior Health Counsel; Jerry Leverich, Counsel;  
45 Jourdan Lewis, Policy Analyst; Perry Lusk, GAO Detailee;  
46 Dustin Maghamfar, Air and Climate Counsel; John Marshall,

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47 Policy Coordinator; Kevin McAloon, Professional Staff Member;  
48 Dan Miller, Policy Analyst; Jon Monger, Counsel; Elysa  
49 Montfort, Press Secretary; Phil Murphy, Policy Coordinator;  
50 Lisa Olson, FERC Detailee; Joe Orlando, Staff Assistant;  
51 Kaitlyn Peel, Digital Director; Mel Peffers, Environment  
52 Fellow; Alivia Roberts, Press Assistant; Tim Robinson, Chief  
53 Counsel; Chloe Rodriguez, Policy Analyst; Nikki Roy, Policy  
54 Coordinator; Samantha Satchell, Professional Staff Member;  
55 Andrew Souvall, Director of Communications, Outreach and  
56 Member Services; Sydney Terry, Policy Coordinator; Kimberlee  
57 Trzeciak, Senior Health Policy Advisor; Rick Van Buren,  
58 Health Counsel; Eddie Walker, Technology Director; Teresa  
59 Williams, Energy Fellow; Tuley Wright, Energy and Environment  
60 Policy Advisor; C.J. Young, Press Secretary; Jennifer  
61 Barblan, Minority Chief Counsel, O&I; Mike Bloomquist,  
62 Minority Staff Director; Adam Buckalew, Minority Director of  
63 Coalitions and Deputy Chief Counsel, Health; Robin Colwell,  
64 Minority Chief Counsel, C&T; Jerry Couri, Minority Deputy  
65 Chief Counsel, Environment & Climate Change; Jordan Davis,  
66 Minority Senior Advisor; Kristine Fargotstein, Minority  
67 Detailee, C&T; Margaret Tucker Fogarty, Minority Staff  
68 Assistant; Melissa Froelich, Minority Chief Counsel, CPAC;  
69 Theresa Gambo, Minority Human Resources/Office Administrator;

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70 Caleb Graff, Minority Professional Staff Member, Health;  
71 Brittany Havens, Minority Professional Staff, O&I; Peter  
72 Kielty, Minority General Counsel; Bijan Koochmaraie, Minority  
73 Counsel, CPAC; Tim Kurth, Minority Deputy Chief Counsel, C&T;  
74 Ryan Long, Minority Deputy Staff Director; Mary Martin,  
75 Minority Chief Counsel, Energy & Environment & Climate  
76 Change; Sarah Matthews, Minority Press Secretary; Brandon  
77 Mooney, Minority Deputy Chief Counsel, Energy; James  
78 Paluskiewicz, Minority Chief Counsel, Health; Brannon Rains,  
79 Minority Staff Assistant; Zach Roday, Minority Communications  
80 Director; Kristen Shatynski, Minority Professional Staff  
81 Member, Health; Alan Slobodin, Minority Chief Investigative  
82 Counsel, O&I; Peter Spencer, Minority Senior Professional  
83 Staff Member, Environment & Climate Change; Natalie Sohn,  
84 Minority Counsel, O&I; Danielle Steele, Minority Counsel,  
85 Health; Everett Winnick, Minority Director of Information  
86 Technology; and Greg Zerzan, Minority Counsel, CPAC.

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87 Ms. Schakowsky. The Subcommittee on Consumer Protection  
88 and Commerce will now come to order. We begin with member  
89 opening statements, and the chair will now recognize herself  
90 for 5 minutes.

91 So I want to say good morning to all of you on this  
92 beautiful day and thank you for joining us for this hearing,  
93 examining how counterfeit products and fake reviews sold and  
94 found on the internet are making Americans less safe at home,  
95 at work, and on the road.

96 When we began planning this hearing, I had two clear  
97 goals in mind. One, to strengthen the existing Consumer  
98 Products Safety Commission's relationship with the U.S.  
99 Customs and Border Patrol to keep counterfeit and unsafe  
100 products from entering our country. Number two, to examine  
101 what tools the Federal Trade Commission needs to combat the  
102 proliferation of fake reviews online, since recent cases like  
103 its settlement with cosmetic company Sunday Riley clearly  
104 demonstrates that it is not currently up to the task of  
105 taking on some of the worst problems.

106 Shortly after we began planning for today, I was pleased  
107 to learn the administration's plan to combat counterfeits  
108 entering the marketplace under the leadership of Dr. Peter  
109 Navarro. I expect them to be able to partner with us in an

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110 effort to strengthen CPSC's relationship with customers.  
111 However, I have to say the vast majority of the commerce  
112 shipped to U.S. consumers skirts normal custom procedures and  
113 often all inspections because they enter the U.S. under de  
114 minimis waivers. Worse, Monday's announcement of Dr. Nancy  
115 Beck, her nomination, leaves me less hopeful about the  
116 prospect for collaboration given her anti-consumer record at  
117 the Environmental Protection Agency and as an executive at  
118 the American Chemical Council.

119         Unfortunately, these problems neither began nor end at  
120 ports of entry. Fake Reviews are becoming more and more  
121 widespread, and up to this point the Federal Trade Commission  
122 has proven that it needs more tools to combat this growing  
123 concern by consumers. Organized retail crime selling  
124 counterfeits and stolen products poses a threat to consumers  
125 who are unwittingly purchasing these items online on online  
126 marketplaces.

127         The emergence of these unregulated platforms has given  
128 criminal enterprises additional meaning to sell stolen and  
129 counterfeit goods to unsuspecting consumers. Online  
130 marketplaces need to place safety and accountability to  
131 consumers before profits. Unfortunately, we are seeing more  
132 and more companies characterizing online commerce as content,

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133 seeking to use the content liability shield granted through  
134 Section 230 of the Communications Decency Act, a law badly in  
135 need of reform.

136 Making matters worse, the administration is seeking to  
137 further enshrine the law 230, by exporting it in trade  
138 agreements all over the world. Last week, I wrote a letter  
139 to Ambassador Lighthizer to associate myself with the chair  
140 and ranking member of this full committee requesting to leave  
141 this policy out of future trade agreements and I will  
142 continue to work with my colleagues on both sides of the  
143 aisle.

144 I look forward to hearing from our witnesses today about  
145 the current state of play and how we can improve the  
146 situation, including by arming the Consumer Products Safety  
147 Commission and the Federal Trade Commission with the tools  
148 necessary to help root out this problem.

149 So now the chair will recognize our ranking member of  
150 the subcommittee and you will have 5 minutes for your opening  
151 statement.

152 [The prepared statement of Ms. Schakowsky follows:]

153

154 \*\*\*\*\*INSERT 1\*\*\*\*\*

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155 Mrs. McMorris Rodgers. I thank the chair. Good  
156 morning. Welcome, everyone, to the Consumer Protection and  
157 Commerce Subcommittee hearing on counterfeit products.

158 I first want to recognize how President Trump and his  
159 administration are leading to combat counterfeit and pirated  
160 goods online. The President has made this a priority which  
161 is clear in Phase 1 of the U.S.-China trade deal.

162 For instance, China agreed to provide enforcement  
163 procedures to facilitate effective and quick takedowns;  
164 consider revoking e-commerce operating licenses for repeated  
165 failures; take action to stop the manufacturing of pirated  
166 and counterfeit products; take enforcement action against  
167 counterfeit medicines and other products that have made a  
168 significant impact on public health or safety; and increase  
169 the number of trained professionals to inspect, detain, and  
170 destroy any counterfeit goods found at the Chinese border.

171 In addition, on January 24th, the Department of Homeland  
172 Security released its first report required by President  
173 Trump's April 2019 Memorandum on Combating Trafficking in  
174 Counterfeit and Pirated Goods. This was a call to action to  
175 fight against cheaters and bad actors gaming the e-commerce  
176 system. The government recommends where the government  
177 should take action and best practices for e-commerce

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178 platforms and other third-party marketplaces.

179           Among the best practices, the administration is calling  
180 on companies to enhance the vetting of third-party sellers,  
181 limit high-risk products, clear transactions through banks  
182 that comply with U.S. law, and provide rapid notice and  
183 takedown procedures. Following the report, President Trump  
184 signed an executive order to ensure safe and lawful e-  
185 commerce product people and guard against intellectual  
186 property abuse.

187           I commend the administration for their leadership. As I  
188 have said before, to win the future and beat China, America  
189 must be the global leader in the 21st century economy. Just  
190 like we must lead to promote artificial intelligence and  
191 deploy autonomous vehicles, America must also lead to stop  
192 counterfeit goods and protect our intellectual property.

193           If we don't step up, China will dictate the terms and  
194 the rules for the future. The Chinese Communist Party will  
195 win with the playbook they have always used, by undermining  
196 human rights, stealing from our innovators, and cheating and  
197 harming Americans. America innovates and creates, while  
198 China cheats and steals. According to a report by the  
199 Organization for Economic Cooperation and Development, China  
200 is "the single largest producing market of counterfeit and

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201 pirated products."

202 Administration officials estimate that more than a  
203 hundred thousand packages from China arrive in America a day  
204 that can harm and defraud people. More than eighty-five  
205 percent of all contraband seized at our borders come from  
206 China and Hong Kong. While the administration is taking  
207 decisive action, the government and regulations cannot solve  
208 this issue alone. The best way to predict the future is to  
209 invent it. American innovators must be equipped to win the  
210 future and beat China in artificial intelligence, block  
211 chain, IoT, and other emerging technologies.

212 Companies today are leveraging AI to analyze data points  
213 to discover counterfeit listings and repeat offenders. IoT  
214 provides identification and traceability functions that can  
215 be used to address and track counterfeit sales. Block chain  
216 may provide a unique solution to this complex problem. For  
217 example, a tamper-proof chain of custody that uses smart tags  
218 can ensure only authentic products are included in the block  
219 chain and sold.

220 As the DHS report suggests, we should leverage public-  
221 private partnerships to develop a national awareness  
222 campaign. We should educate people about the risk of  
223 counterfeits as well as the various ways they can spot and

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224 report counterfeits online. etailz, in Spokane Valley,  
225 Washington, is also working with businesses to navigate  
226 online marketplaces and protect their brands from bad actors.  
227 They do it by helping small businesses conduct test buys,  
228 documenting counterfeits, and filing complaints, among other  
229 services. It is proactive, pro-innovative, and pro-consumer,  
230 and actions like this should be encouraged, especially on e-  
231 commerce sites that are convenient for people and create more  
232 opportunity for small businesses to succeed.

233 I thank the leaders at like etailz for taking action for  
234 the health and safety of customers and I encourage this  
235 committee to lead by harnessing, not holding back the  
236 innovation and the agility of the private sector to address  
237 this pervasive problem of counterfeit products. Thank you  
238 and I yield back.

239 [The prepared statement of Mrs. McMorris Rodgers  
240 follows:]

241

242 \*\*\*\*\*INSERT 2\*\*\*\*\*

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243 Ms. Schakowsky. The gentlelady yields back, and now the  
244 chair recognizes Mr. Pallone, chairman of the full committee,  
245 for 5 minutes for his opening statement.

246 The Chairman. Thank you, Madam Chair, and thank you for  
247 holding this very important hearing. And I do also want to -  
248 - while I don't agree with Mrs. Rodgers in terms of what she  
249 said about the Trump administration leading on this issue, I  
250 don't think they are, but I do want to thank you for being,  
251 for pointing out that there is a lot more that the private  
252 sector could do, and also for coming down very hard on China  
253 because I think you are absolutely right. That there is so  
254 much of this that is coming from China and that they are very  
255 much to blame for a lot of the counterfeiting and outright  
256 fraud that we are seeing.

257 But I want to say that thanks to the growth in e-  
258 commerce, we can purchase products from our computers,  
259 phones, tablets, or our smart speakers at any hour of the  
260 day, with the expectation that the products will be delivered  
261 at our doorstep within days or even hours. Third-party  
262 sellers on online marketplaces such as Amazon, eBay, and  
263 others are responsible for much of the convenience, providing  
264 a seemingly endless collection of products for consumers.

265 On Amazon, where nearly half of online U.S. shoppers

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266 start their product searches, sales by third-party sellers  
267 now make up sixty percent of total sales. But the problem is  
268 that this convenience has come at a price, and that is a  
269 proliferation of dangerous counterfeit goods that endanger  
270 consumers and property, and an army of counterfeit merchants  
271 from overseas, particularly China, that undermine American  
272 small businesses with unscrupulous tactics. And the  
273 practices and policies of the online platforms have made it  
274 increasingly difficult for even the savviest consumers to  
275 avoid fake and unsafe products.

276 For years, brick and mortar stores have had policies in  
277 place to ensure the integrity of their supply chain. The  
278 stores also take responsibility for defective or unsafe  
279 products and these traditional practices simply do not exist  
280 on the online marketplace. In fact, many online marketplaces  
281 seem to be taking the opposite approach, abdicating any  
282 responsibility because they are thriving off the sale of fake  
283 goods.

284 A recent survey found that twenty-six percent of  
285 American consumers have been conned into purchasing at least  
286 one counterfeit product in the past year. Too many consumers  
287 don't realize they have purchased counterfeits until it is  
288 too late and this can result in tragic consequences.

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289 Hoverboards with counterfeit batteries who caught on fire  
290 while charging, burning down someone's house; fake beauty  
291 products have reportedly caused people's eyelashes to fall  
292 out in clumps; and counterfeit products can result in chronic  
293 health effects that do not present until years later like  
294 water filter cartridges that not only don't remove  
295 contaminants, but actually add new carcinogens to water.

296           Investigations by various media outlets have uncovered a  
297 huge number of knockoff children products that pose serious  
298 safety risks. There have been troubling reports of car seats  
299 that don't meet the National Highway Traffic Safety  
300 Administration's crash test standards, bicycle helmets -- I  
301 see Mr. Love brought some. I don't mean yours are bad, but  
302 bicycle helmets that don't meet the Consumer Products Safety  
303 Commission's performance standards and recalled products and  
304 knockoffs of recalled products that federal regulators know  
305 can or already have caused serious death or injury, and these  
306 knockoff products proliferate on online marketplaces.

307           And consumers and authentic brands cannot fight the  
308 combination of lax policies of online platforms and deceptive  
309 practices of unscrupulous sellers trying to edge out  
310 legitimate businesses. Fake and incentivized reviews drown  
311 out authentic reviews or are used to take down legitimate

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312 rivals. On many marketplaces, misleading user interfaces  
313 obscure the identity of the actual seller for each purchase.  
314 And a person may think they are buying from Amazon when they  
315 are instead buying from a foreign third party who merely  
316 ships through Amazon, and a platform's decision to comingle  
317 inventory from different sellers makes it virtually  
318 impossible for anyone to reliably track whether they received  
319 a counterfeit or authentic product.

320 Counterfeiters also have become much more sophisticated,  
321 producing products that appear authentic and setting prices  
322 more on par with authentic goods to better trick consumers.  
323 And savvy consumers who turn to the online store of a trusted  
324 brick and mortar business in search of authentic goods are  
325 increasingly finding a marketplace of third-party sellers,  
326 instead of a place to directly purchase their trusted brands.

327 Many large traditional retailers -- Walmart, Target,  
328 Macy's, Crate and Barrel -- have launched third-party  
329 marketplaces to keep pace with Amazon and bolster lagging  
330 sales, so it is these hybrid marketplaces in which a site  
331 acts as both a seller and a platform for third-party sellers  
332 that I think are most confusing. While some of these  
333 platforms screen and curate their sellers, others do less  
334 vetting and can give those sellers an aura of credibility,

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335 often undeserved.

336           So, this week is National Consumer Protection Week and I  
337 think we can help bring attention to issues that are causing  
338 consumer problems. This week is a perfect time to get  
339 answers from our panel on the scope of the problem and  
340 solutions we can implement to protect consumers. And again,  
341 I think this is a very important hearing. Thank you, Madam  
342 Chair.

343           [The prepared statement of The Chairman follows:]

344

345 \*\*\*\*\*INSERT 3\*\*\*\*\*

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346 Ms. Schakowsky. Well, thank you for pointing out that  
347 it is National Consumer Protection Week, okay, so this  
348 hearing is totally appropriate. The gentleman yields back,  
349 and now the chair recognizes Mr. Walden, the ranking member  
350 of the full committee, for 5 minutes.

351 Mr. Walden. Good morning, Madam Chair. And welcome to  
352 our panelists. We appreciate your being here on this hearing  
353 on counterfeits and unsafe products. When I chaired the  
354 committee, we held a series of hearings on platform  
355 responsibility. Today's hearing builds on I think that  
356 really important work we did in this committee last Congress.  
357 Chair Schakowsky, thanks for holding this hearing where we  
358 can explore what steps online platforms and marketplaces with  
359 rights holders are taking to address counterfeit goods  
360 online.

361 Online marketplaces are attractive digital storefronts  
362 that allow consumers to quickly locate products on their own  
363 time. This low search cost provides consumers high  
364 visibility and access to so many different options and price  
365 points that allows aspiring small business owners to reach  
366 more potential customers. But within an increased use and  
367 attractiveness of these entities also comes an increase of  
368 bad actors, as you all know. They seek to game the system

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369 and sell counterfeit products and illicit products.

370 We of course have seen these supply channels come via  
371 China, touch every part of this committee's jurisdiction.  
372 Given that, I am pleased that the Trump administration has  
373 taken this issue very seriously, as we can all agree that  
374 counterfeit products threaten our economy, public safety, and  
375 consumer trust. After all, we have an obligation to ensure  
376 the e-commerce policies this committee helped put in place  
377 continue to have positive impacts for American consumers.

378 We can now order groceries and household supplies online  
379 and expect them to be at our door within hours. This  
380 convenience is truly remarkable, especially for individuals  
381 who do not have access to, or the capability to visit brick  
382 and mortar storefronts. But again, the success and benefits  
383 of these marketplaces has given rise to those peddling  
384 counterfeit and illicit products for a quick buck.

385 Counterfeiters do not care about the existing laws, nor  
386 do they care about the small businesses and people that they  
387 actually hurt. I say that recognizing the complexity  
388 involved here for all of you on the panel. If you find and  
389 remove an account or product today, a bad actor can create a  
390 new account and begin selling the same product tomorrow under  
391 a different name or a different site. Just like the hydra,

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392 if you cut off one head, others generate in its place.

393           Despite these challenges, the Trump administration does  
394 deserve credit for countering the widespread distribution of  
395 counterfeits. Just last month, the Department of Homeland  
396 Security issued its Combating Trafficking and Counterfeit and  
397 Pirated Goods report. After that report was released,  
398 President Trump issued an executive order making clear this  
399 administration is focused on cracking down on the sale of  
400 counterfeit goods online.

401           Now let's go to the report. In fiscal year 2018, U.S.  
402 Customs and Border Protection, CBP, seized over 28,000  
403 products. That is what the report found. It also showed the  
404 market for counterfeit pharmaceutical drugs had expanded to  
405 include everything from cancer medications to opioids. Fake  
406 prescription opioids are often laced with fentanyl. That is  
407 a deadly compound that its lethal dose is the size of a few  
408 grains of salt, and much of the fentanyl entering our country  
409 originates in China.

410           Republicans and Democrats on this committee have worked  
411 together in the past to address the public health crisis of  
412 fake medications and the influx of fentanyl entering our  
413 country, but we all know we have a lot more work to do on  
414 this front. The fight against counterfeits and illicit

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415 products must also include consumer education and awareness.  
416 Counterfeits can be difficult to spot online, especially when  
417 stolen graphics and other forms of deception are used, but  
418 sometimes we just need to know when a deal is too truly good  
419 to be true, it probably is. You can't get the new Apple  
420 AirPods Pro in whatever color you would like for a few bucks.

421 All sectors must work with appropriate government  
422 agencies to increase awareness among consumers to help them  
423 better identify and report potential conflicts and  
424 counterfeits. I am eager to hear what e-commerce platforms  
425 and marketplaces are doing to address this problem and how  
426 they are incorporating feedback from the Department of  
427 Homeland Security report to increase safety and educate  
428 consumers on their platforms.

429 I also look forward to hearing what steps rights owners  
430 are taking to protect their brands and how they are  
431 collaborating with platforms and marketplaces to do so. I  
432 believe collaboration can and must occur between online  
433 platforms and marketplaces, law enforcement, and rights  
434 owners. We have to all get together and protect our  
435 consumers.

436 So I want to thank you all for being here today. And,  
437 Madam Chair, I want to thank you for holding this hearing. I

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438 know your cause is consumer protection and so we will look  
439 forward to moving forward, and I yield back.

440 [The prepared statement of Mr. Walden follows:]

441

442 \*\*\*\*\*INSERT 4\*\*\*\*\*

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443 Ms. Schakowsky. The gentleman yields back. And now the  
444 chair would like to remind members that pursuant to committee  
445 rules, all members' written opening statements shall be made  
446 part of the record.

447 And now I will introduce the witnesses that we have  
448 today, and I welcome all of you. Dr. David Friedman, he is  
449 Vice President of the Advocacy at Consumer Reports. Mr.  
450 Dharmesh Mehta, Vice President of World Customer Trust and  
451 Partner Support at Amazon. Oh, I skipped -- who did I skip?  
452 Okay. Next, is my friend, Lori Wallach, who is Director of  
453 Global Trade Watch at Public Citizen.

454 And then, Ms. Amber Leavitt, Associate General Counsel  
455 and Head of IP at eBay. Mr. Jeff Myers, Senior Director for  
456 Intellectual Property at Apple, and finally, Mr. Andrew Love,  
457 Head of Brand Security/Investigations/Global Enforcement at  
458 Specialized Bicycles. Welcome all of you, and we want to  
459 thank the witnesses for joining us today. We look forward to  
460 your testimony.

461 And at this time, the chair will recognize each witness  
462 for 5 minutes to provide your opening statement. Before we  
463 begin, I want to explain the lighting system. I think most  
464 of you know but, if not, I want to tell you that in front of  
465 you is a series of lights. The light will initially be green

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466 at the start of your opening statement. The light will turn  
467 yellow when you have 1 minute remaining, and please begin to  
468 wrap up your testimony at that point. The light will turn  
469 red when your time expires, and we would really like you to  
470 keep to that 5 minutes.

471 So, Mr. Friedman, you are recognized for 5 minutes.

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472 STATEMENTS OF DAVID FRIEDMAN, VICE PRESIDENT, ADVOCACY,  
473 CONSUMER REPORTS; DHARMESH MEHTA, VICE PRESIDENT OF WORLDWIDE  
474 CUSTOMER TRUST AND PARTNER SUPPORT, AMAZON; LORI WALLACH,  
475 DIRECTOR, GLOBAL TRADE WATCH, PUBLIC CITIZEN; AMBER LEAVITT,  
476 ASSOCIATE GENERAL COUNSEL AND HEAD OF IP, EBAY; JEFF MYERS,  
477 SENIOR DIRECTOR FOR INTELLECTUAL PROPERTY, APPLE; AND, ANDREW  
478 LOVE, HEAD OF BRAND SECURITY/INVESTIGATIONS/GLOBAL  
479 ENFORCEMENT, SPECIALIZED BICYCLES

480

481 STATEMENT OF DAVID FRIEDMAN

482 Mr. Friedman. Try that again, how is that?

483 Ms. Schakowsky. There you go.

484 Mr. Friedman. Technology. Thank you, Chairwoman  
485 Schakowsky, Ranking Member Rodgers, and members of the  
486 subcommittee for inviting CR to testify today. We are here  
487 today because American families face new threats in the  
488 marketplace. A patchwork of poorly enforced regulations  
489 offers few safeguards for Americans grappling with seismic  
490 shifts in the economic and media landscapes.

491 With little governing of the accuracy of online claims,  
492 consumers face a true uphill battle engaging the value, the  
493 quality, and the authenticity of goods and products available  
494 to them. Now what is so stunning about this is it is the

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495 exact same challenge Consumer Reports faced when we were  
496 founded in 1936. 84 years later we are asking the same  
497 fundamental question: How do we ensure that the marketplace  
498 works for consumers? Of course, this time it is the digital  
499 marketplace.

500 Fueled by the incredible power and reach of the  
501 internet, today's 3.4 trillion-dollar global e-commerce  
502 system provides what appear to be hundreds of millions of  
503 reasonable choices. But all too often it leaves consumers on  
504 their own to figure out which products are defective and  
505 dangerous, which ones are counterfeit, and whether the  
506 reviews they rely on are fake or the websites they are using  
507 are manipulating their buying decisions.

508 The fact is, core parts of the e-commerce system are  
509 broken. There is no other way to explain the fact that just  
510 this morning, I was able to find Fisher Price Rock 'n Play  
511 Sleepers for sale on both Facebook Marketplace and Craigslist  
512 and from one online retailer, You Are My Everything, despite  
513 the fact that the product was recalled more than 10 months  
514 ago after being tied to dozens of infant deaths. Or why you  
515 could buy other hazardous inclined sleepers on Amazon, BuyBuy  
516 Baby, eBay, and Walmart websites until those companies  
517 stepped up and pulled the products after the CPSC and

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518 Consumer Reports reached out.

519

520 There is also no other way to explain the fact that  
521 until CR shed light on the problem, you could buy a  
522 potentially counterfeit bike helmet on websites operated by  
523 Amazon, Sears, Alibaba, and LightInTheBox, despite the fact  
524 that they did not have mandated safety certifications, or  
525 that in one afternoon, a Consumer Reports reporter spotted  
526 over a dozen different products on Amazon with inflated  
527 ratings fueled by thousands of fake reviews, including an  
528 Amazon's Choice headphone adapter with reviews for a totally  
529 different product, an eyelash growth serum, of all things.

530 Today, a core problem in the e-commerce is clear: there  
531 is a fundamental lack of online platform accountability,  
532 accountability that can be created in three steps. First,  
533 online marketplaces should absolutely be held responsible  
534 when they are or should be reasonably aware of hazardous  
535 products or illegal behavior, including fake reviews and  
536 other manipulative practices. They should also be required  
537 by law to reasonably search for and deter abuses like these.

538 Second, after being undermined for decades, the  
539 authorities of critical consumer protection agencies must be  
540 strengthened in order to address the limitations or gaps

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541 hindering their ability to police online marketplaces. This  
542 is especially true for the FTC. Finally, the CPSC, FTC, and  
543 NHTSA have about half as many people -- half -- working for  
544 them today compared to 1980, while the economy has tripled in  
545 size and dramatically changed. Congress should at least  
546 double their budgets and significantly increase their staff  
547 so consumers don't have to carry such a large burden to keep  
548 themselves and their families safe in both the digital and  
549 physical marketplaces.

550           Members of the committee, you are here to help your  
551 constituents, in other words consumers, and too often the  
552 digital marketplace is failing them. It is time to fix the  
553 system by shifting greater responsibility to online platforms  
554 and ensuring consumer protection agencies can create and  
555 enforce accountability in the system, accountability that  
556 will spur companies to put their innovative power to use to  
557 help their customers.

558           Consumer Reports will continue to expose dangerous  
559 products, counterfeits, fake reviews, and other schemes  
560 because consumers deserve a fair, safe, and transparent  
561 digital marketplace, one that they can trust and that  
562 fundamentally delivers on its immense promise. We look  
563 forward to working with this subcommittee and any company

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564 interested in realizing a digital marketplace that puts  
565 consumers first. Thank you.

566 [The prepared statement of Mr. Friedman follows:]

567

568 \*\*\*\*\*INSERT 5\*\*\*\*\*

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569 Ms. Schakowsky. The gentleman yields back.

570 And, Mr. Mehta, you are recognized for 5 minutes.

571

572 STATEMENT OF DHARMESH MEHTA

573

574 Mr. Mehta. Thank you, Chairwoman Schakowsky, Ranking  
575 Member McMorris Rodgers, and members of the subcommittee for  
576 inviting me to participate in today's hearing. I would also  
577 like to thank the full committee, including Chairman Pallone  
578 and Ranking Member Walden.

579 My name is Dharmesh Mehta and I am the vice president of  
580 Worldwide Customer Trust and Partner Support at Amazon. I  
581 have the privilege of leading the teams that are dedicated to  
582 ensuring that we prevent fraud, counterfeits, fake reviews,  
583 and other forms of abuse from harming our customers, brands,  
584 and selling partners, as well as the teams dedicated to  
585 helping support our selling partners and succeeding in our  
586 stores. I also work very closely with the Amazon teams  
587 dedicated to ensuring that we prevent unsafe or otherwise  
588 noncompliant products from being sold in our stores.

589 Amazon's goal is to be Earth's most customer-centric  
590 company and we are regularly cited as one of the leading  
591 companies in this regard. Stores like ours provide

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592 tremendous selection, convenience, and value to consumers  
593 but, unfortunately, this also presents an attractive target  
594 for criminals and bad actors that attempt to attack our  
595 stores. To maintain Amazon's high level of trust with  
596 customers, we make record investments in proactive  
597 technology-driven systems and expert human investigators.

598 We launch innovative tools and capabilities that  
599 continue to improve, and we partner with government agencies,  
600 policymakers, and law enforcement to hold bad actors  
601 accountable. We know that if customers don't trust us, they  
602 can and will shop elsewhere, and a key part of earning  
603 customers' trust is ensuring that only authentic and safe  
604 products are sold in our stores.

605 We strictly prohibit the sale of counterfeit products  
606 and we require all products to comply with applicable laws,  
607 regulations, and Amazon policies. But even more importantly,  
608 Amazon invests tremendous resources in preventing  
609 counterfeits, unsafe products, and other types of abuse. In  
610 2019 alone, we invested over \$500 million and had more than  
611 8,000 employees who focused on preventing fraud and abuse.

612 As a part of these investments, Amazon invests heavily  
613 in proactive efforts designed to stop bad actors before they  
614 are able to create new selling accounts and to stop bad

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615 listings, including counterfeits and unsafe products, from  
616 ever being seen in our stores. Third parties trying to  
617 create a new selling account go through a set of enhanced  
618 vetting, including a number of identity and payment related  
619 verifications, and we also use proprietary machine learning  
620 technology to stop bad actors before they can list a single  
621 product for sale. In 2019, our proactive efforts blocked  
622 over 2.5 million bad actor account creation attempts before  
623 they were able to publish a single product for sale.

624 We also continue to monitor all seller accounts over  
625 time, including through technology that scans each of the  
626 more than five billion listing updates that are submitted  
627 daily to our catalog. When we find something concerning, we  
628 may block that listing, require additional verification to  
629 sell that product, and/or conduct further investigation. We  
630 have similar ongoing processes in place to monitor or stop  
631 potentially fake or abusive reviews.

632 As a result of these efforts, in 2019, we proactively  
633 blocked over six billion suspected bad listings and  
634 proactively blocked more than 100 million suspected fake  
635 reviews. Our efforts have ensured that 99.9 percent of pages  
636 viewed in our store have not had a valid report of  
637 counterfeit infringement. In addition, we have developed

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638 industry-leading brand protection tools such as Brand  
639 Registry, Transparency, and Project Zero. These tools  
640 empower rights owners to partner with us and help protect  
641 their brands so that collectively we can drive counterfeits  
642 to zero.

643 And they are working. For brands that are using all of  
644 our brand protection tools, we have been able to, together,  
645 virtually eliminate counterfeits for these brands. But we  
646 know we are not perfect and so we also continuously listen to  
647 more than 45 million pieces of weekly feedback that we  
648 receive from customers and others to search for any  
649 indication of an issue, helping us to swiftly remove bad  
650 listings that made it past our proactive controls. Where we  
651 find an issue, we not only quickly take action to address the  
652 specific defect, but we also use this to constantly improve  
653 our proactive controls to prevent these issues from occurring  
654 in the first place allowing our proactive controls to  
655 continually get better.

656 This monitoring of large amounts of customer feedback  
657 can also allow us to find potential issues well before other  
658 industry participants or regulators have detected them or  
659 developed clear guidelines on how to handle a situation. As  
660 a result, we also regularly alert regulators to the issues we

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661 are seeing and we work together to establish new guidelines,  
662 not just for Amazon, but for the entire industry.

663 We also partner with government agencies and law  
664 enforcement to hold bad actors accountable. We report all  
665 counterfeiters that we block from our stores to the  
666 Department of Homeland Security and the National Intellectual  
667 Property Rights Coordination Center, aiding them in putting  
668 together stronger criminal cases against bad actors. We also  
669 pursue litigation both on our own and in partnership with  
670 rights owners. Since 2015, we have brought lawsuits against  
671 over 1,000 defendants for attempted abuse in our stores.

672 Amazon will continue to invest heavily and continue to  
673 innovate on behalf of our customers and our selling partners  
674 to ensure that only authentic and safe products are sold in  
675 our stores. However, we know that success will require all  
676 of us across the private and public sector to partner  
677 together in this fight to stop counterfeit and unsafe  
678 products.

679 We welcome the opportunity to work with this committee  
680 and anyone else who is committed to eradicating counterfeits  
681 and unsafe products from the retail industry. I look forward  
682 to continuing this discussion and I am happy to answer any  
683 questions.

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684 [The prepared statement of Mr. Mehta follows:]

685

686 \*\*\*\*\*INSERT 6\*\*\*\*\*

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687 Ms. Schakowsky. Thank you.

688 And now I recognize Ms. Wallach for 5 minutes.

689

690 STATEMENT OF LORI WALLACH

691

692 Ms. Wallach. Thank you, Madam Chairwoman and the  
693 ranking member and the full committee and ranking member  
694 chairs. I am Lori Wallach from Public Citizen's Global Trade  
695 Watch. Public Citizen is a national public interest  
696 organization founded in 1974, with a half million members and  
697 supporters nationwide. Thank you for the opportunity to  
698 testify today on this serious threat posed to the American  
699 consumers by a growing tsunami of unsafe products facilitated  
700 by e-commerce sales.

701 When many people think about counterfeits or fakes, they  
702 think knockoff Gucci bags or fake Rolexes and their being  
703 sold on street corners. But increasingly and to a great  
704 extent because of the exponential growth of e-commerce as a  
705 means by which Americans buy products, consumers are being  
706 widely exposed to serious consumer health and safety risks by  
707 fake products. Fake products being those which are now  
708 bought online of higher value and high consumer risks.

709 Fake and unsafe products produced anywhere in the world

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710 gain millions of potential customers with sales and delivery  
711 made quick and easy listed on well-branded, e-commerce  
712 platforms which provide an air of legitimacy. In the face of  
713 a business model designed to evade responsibility with online  
714 retailers claiming not to be sellers and thus not responsible  
715 for the accuracy of the listing or the safety of the good --  
716 in contrast to brick and mortar retailers -- e-commerce  
717 consumers' last resort is on the government agencies that are  
718 responsible for health and safety.

719 But no, because today, online retailers are able to use  
720 trade law loopholes to skirt normal Customs procedures and  
721 inspections. Buried in the 2015 Trade Facilitation and Trade  
722 Enforcement Act was a change that has functioned like a deep-  
723 sea earthquake, spawning the tsunami of potentially fake and  
724 dangerous e-commerce imports that evade U.S. safety  
725 inspection. That change was to Section 321 of the Trade Act  
726 of 1930.

727 It allowed goods, it allowed Customs to allow goods with  
728 a value below eight hundred dollars to be imported by one  
729 person on one day, admitted duty-free, tax-free, without any  
730 of the normal data required with respect to where a good was  
731 made, detailed descriptions of what it is, or any kind of a  
732 classification number or a tariff number. The idea is

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733 efficiency. We all know of de minimis when you can, for a  
734 long time, list two hundred dollars' worth of goods when you  
735 are flying back in from a trip overseas.

736 By moving it from two hundred to eight hundred, two very  
737 big consequences emerged. First, products of a much higher  
738 value can get de minimis treatment and so the variety of  
739 products that could be sold expanded enormously. Now e-  
740 commerce retailers use it to bring in millions of  
741 individually packaged goods every day as compared to the two  
742 hundred-dollar level which mainly was travelers. Many of  
743 these goods were too valuable to enter duty-free, tax-free,  
744 inspection-free when the rate was two hundred dollars, so  
745 there are many goods that have a high risk to consumers:  
746 Electric scooters we have heard about, hoverboards, air bags,  
747 medical equipment, major electronics, et cetera.

748 Second, the volume of de minimis shipments skyrocketed  
749 because the eight hundred-dollar limit made it commercially  
750 viable. It is not just individual travelers. So, right now,  
751 according to the Customs Department, 1.8 million de minimis  
752 shipments arrive and are cleared without inspection every day  
753 -- 1.8 million every day -- one million from China by air,  
754 alone.

755 And because the de minimis shipments skirt the normal

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756 Customs procedures, it effectively handcuffs the ability of  
757 the Consumer Products Safety Commission and the other  
758 agencies responsible for our safety inspections who are co-  
759 located with Customs in ports, because they all rely on the  
760 data that isn't capped for those products to be able to do  
761 the risk assessments and targeting. So, typically, the CPSC  
762 has somebody from their import surveillance operation in a  
763 port and they have data in advance. Normal shipments come in  
764 and in advance under Customs rules if it is not de minimis  
765 you have to know where it came from, it has various codes.

766 The risk is --

767 Ms. Schakowsky. You need to begin to wind down. We are  
768 past time. Oh, no. Yes, we are.

769 Ms. Wallach. There is a risk assessment system that  
770 allows these goods to be caught. As a result, now we have  
771 goods coming in that are not being caught, and I recommend to  
772 the committee the CPSC's Office of Import Surveillance's  
773 report, e-Commerce Assessments, that lays out the  
774 deficiencies and what the agency needs to deal with them.  
775 Thank you very much.

776 [The prepared statement of Ms. Wallach follows:]

777

778 \*\*\*\*\*INSERT 7\*\*\*\*\*

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779 Ms. Schakowsky. I thank you.

780 And now, Ms. Leavitt, you are recognized for 5 minutes.

781

782 STATEMENT OF AMBER LEAVITT

783

784 Ms. Leavitt. Chairman Schakowsky, Ranking Member  
785 McMorris Rodgers, members of the subcommittee, I appreciate  
786 the opportunity to appear before you. My name is Amber  
787 Leavitt and I am Associate General Counsel and Head of IP for  
788 eBay. eBay is a global commerce platform that connects  
789 buyers and sellers around the world and promotes commerce  
790 that is driven by people.

791 Founded in 1995, eBay's core purpose has never changed,  
792 connecting people and empowering economic opportunity for  
793 all. eBay enables hundreds of thousands of American small  
794 businesses in every corner of the country and reaches 183  
795 million buyers in more than 190 markets around the world.  
796 Over a third of American small businesses on our platform are  
797 from rural or small towns, and thirty-six percent operate a  
798 brick and mortar store.

799 eBay is not a retailer. We do not buy or sell goods nor  
800 do we compete with our sellers by manufacturing or selling  
801 products on our own. We succeed when entrepreneurs and small

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802 businesses that use our platform succeed. eBay's commitment  
803 to consumer safety and intellectual property rights  
804 protection is longstanding and a central value to our  
805 company. Our platform is built on trust, trust that a buyer  
806 will receive whatever he or she has purchased and that a  
807 seller will be paid for that good. The vast majority of  
808 listings on eBay come from honest, law-abiding sellers.

809 Counterfeits and harmful items are simply not welcome on  
810 eBay, but bad actors will always try and game the system. We  
811 fully recognize more needs to be done and we must work  
812 collectively to stop bad actors from using eBay or any other  
813 medium for criminal or illicit activity. As threats against  
814 consumers and rights owners continue to evolve, eBay  
815 continuously seeks to improve our efforts to fight against  
816 the bad actors and remove any product that shouldn't be on  
817 the site.

818 We started this process a long time ago, but as e-  
819 commerce grows, we too need to enhance our efforts. We  
820 invest heavily each year to fight unlawful listings including  
821 counterfeit goods that appear on the platform. eBay takes an  
822 aggressive approach of prevention, detection, and enforcement  
823 to keep prohibited items off the site, remove them as quickly  
824 as possible if and when they do appear, and take actions

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825 against those bad actors improperly using the platform.

826 Central to eBay's anti-counterfeiting efforts is our  
827 partnership with over 40,000 registered rights owners through  
828 our verified rights owner program, otherwise known as VeRO.  
829 Participation in the VeRO program, which was launched in  
830 1998, enables rights owners to report potentially unlawful  
831 listings to eBay including copyright and trademark  
832 infringement claims. The VeRO program allows eBay to  
833 promptly remove a listing typically within 24 hours of being  
834 reported by an intellectual property rights owner.

835 eBay has invested heavily in a complementary mix of  
836 human resources and technical tools and mechanisms to keep  
837 prohibited items off the site. With over 1.4 billion  
838 listings on our site globally at any given time, eBay  
839 continues to develop new technology focused on the proactive  
840 detection of potentially problematic listings on the site.  
841 eBay has a well-established global investigations team in  
842 place to provide support to law enforcement agencies in the  
843 investigation and prosecution of cases impacting eBay's  
844 services including the sale of counterfeit goods.

845 Our teams not only support law enforcement by providing  
846 relevant records upon request, but also conducts our own  
847 investigations into misuse of our platform. We proactively

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848 refer counterfeit goods cases to law enforcement for  
849 potential investigation and prosecution, in particular where  
850 the counterfeit items pose a health or safety risk to eBay's  
851 users. In addition, eBay supports the IPR Center's e-  
852 commerce working group which is exploring ways to share data  
853 on bad actors among participants.

854 Finally, the investigations teams often work closely  
855 with rights owners who are the true subject matter experts on  
856 their products and can help eBay build a strong case for  
857 referral to law enforcement. We continue to work both  
858 proactively and reactively with law enforcement on cases  
859 involving the sale of counterfeit goods.

860 eBay is deeply committed to our users' protection. As  
861 an e-commerce leader in developing policies and tools to  
862 combat infringing or unsafe goods, we are committed to  
863 working with you and other partners to combat counterfeit  
864 goods and protect American consumers. Thank you and I look  
865 forward to your questions.

866 [The prepared statement of Ms. Leavitt follows:]

867

868 \*\*\*\*\*INSERT 8\*\*\*\*\*

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869 Ms. Schakowsky. Thank you.

870 And now, Mr. Myers, you are recognized for 5 minutes.

871

872 STATEMENT OF JEFF MYERS

873

874 Mr. Myers. Good morning, Chairwoman Schakowsky, Ranking  
875 Member McMorris Rodgers, and members of the subcommittee. My  
876 name is Jeff Myers and I am Apple's Senior Director for  
877 Intellectual Property. I lead a team that works every day to  
878 protect Apple's revolutionary products and the customers who  
879 use them. I appreciate the opportunity to participate in  
880 this important hearing about the sale of counterfeit goods,  
881 an issue that is first and foremost about customer safety. I  
882 would like to share my perspectives on the problem, what  
883 Apple is doing to address it, and what more can be done.

884 Apple is a proud American company with a 40-year history  
885 of innovation. We take pride in making the best products,  
886 and the customer experience is at the heart of everything we  
887 do. While this commitment to our customers has been the  
888 foundation of Apple's success, it has also made Apple a  
889 target for criminals who deceive customers into purchasing  
890 counterfeit Apple products which puts customers at risk of  
891 serious safety issues.

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892           Today, criminals increasingly use online third-party  
893 marketplaces to sell counterfeit Apple products. Fraudsters  
894 use Apple's name, logos, designs, and marketing images in  
895 their online offers to deceive customers into believing that  
896 fake Apple products are the real thing. Even after making a  
897 purchase, customers might be unaware that they purchased a  
898 fake product, and when that product does not meet Apple's  
899 high standards for safety and performance, it diminishes  
900 customers' trust in the quality of Apple's products and can  
901 have serious safety implications.

902           Take counterfeit power adapters and replacement  
903 batteries, for example. Unlike genuine Apple products, these  
904 products are not subject to industry standard safety testing  
905 and they tend to be poorly constructed with inferior or  
906 missing components, flawed design, and inadequate electrical  
907 installation. This poses a serious safety threat to  
908 customers. UL, one of the world's leaders in product safety  
909 testing and certification, examined four hundred counterfeit  
910 iPhone power adapters and found that ninety-nine percent of  
911 them failed basic safety tests, sometimes posing risk of fire  
912 or even lethal electrocution.

913           Apple works tirelessly to combat counterfeits at all  
914 stages, from global production and distribution, to sale in

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915 both online and brick and mortar stores. My enforcement  
916 group consists of over thirty dedicated professionals  
917 operating out of nine global offices and working with law  
918 enforcement authorities in more than a hundred countries.  
919 Apple monitors over seventy-five online marketplaces around  
920 the world.

921 When we discover counterfeit Apple products, we notify  
922 online marketplaces of the problem so they can remove the  
923 offers and hopefully take action against the sellers. While  
924 online marketplaces generally remove these listings when we  
925 report them, the impact can be fleeting as criminals simply  
926 relist counterfeit goods creating a game of whack-a-mole.

927 We also work collaboratively with industry and  
928 governments around the world to identify trends and to share  
929 intelligence about criminal networks. Apple is participating  
930 in the administration's work to combat the counterfeit trade  
931 and we collaborate with the U.S. Customs and Border  
932 Protection and Homeland Security investigations among many  
933 other agencies. By working with federal authorities to  
934 better identify counterfeit Apple products at the border, we  
935 have supported over one thousand seizures per year.

936 Of course, Apple cannot address these challenges alone,  
937 and we believe there are actions the marketplace should take

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938 to better protect customers. We agree with many of the best  
939 practices outlined in the recent reports from the Senate  
940 Finance Committee and the Department of Homeland Security,  
941 including the following:

942 First, marketplaces should do a better job of vetting  
943 sellers to ensure they are real, reputable companies that  
944 will stand behind the goods they sell. If a seller can't  
945 pass simple vetting requirements, they should not be allowed  
946 on the marketplace. Marketplaces should adopt better  
947 policies to address repeat offenders and kick them off  
948 marketplaces for good.

949 Third, marketplaces should offer customers more  
950 information about the identity of sellers on offer pages, or  
951 they could provide notifications when they learn that a  
952 seller was supplying counterfeits. Fourth, marketplaces  
953 should work more closely with companies like Apple and law  
954 enforcement to bring criminal actions against counterfeiters.  
955 We have done this with some marketplaces and we appreciate  
956 those efforts. Finally, there should be greater proof of  
957 authenticity requirements for certain categories of products  
958 where counterfeits comprise a significant portion of what is  
959 sold, particularly if safety concerns are present.

960 Thank you for your attention to this issue. Part of the

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961 solution to this problem is increasing public awareness of  
962 the ubiquity of counterfeits online, and we appreciate the  
963 opportunity to appear today in that effort.

964 [The prepared statement of Mr. Myers follows:]

965

966 \*\*\*\*\*INSERT 9\*\*\*\*\*

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967 Ms. Schakowsky. Thank you.

968 And now, Mr. Love, I see that you have some show-and-  
969 tell as well. You are recognized for 5 minutes.

970

971 STATEMENT OF ANDREW LOVE

972

973 Mr. Love. Thank you very much for this kind invite, and  
974 thank you, committee members, for all of your legislative  
975 work when it comes to cycling.

976 Chairman Schakowsky, thank you for sponsoring the  
977 Bicycle Commuter Act of 2019 and being a member of the  
978 bipartisan Congressional Bike Caucus. And I am grateful for  
979 so many members of this committee who are supportive of  
980 cycling with your actions. When I looked into all of you and  
981 what you have done, almost all of you are active in some  
982 respect in your local communities.

983 My name is Andrew Love and I am the head of Brand  
984 Protection and Global Investigations for Specialized  
985 Bicycles. Specialized created the first production mountain  
986 bike, the Stumpjumper, in 1981, and our entire mission since  
987 has been innovation and improving the ride for both  
988 experienced cyclists and those just discovering the sport.  
989 Everybody counts.

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990           May I see a show of hands of the people in this room who  
991           ride, casual or seriously? Great. I have been fighting  
992           counterfeits for the past 12 years on e-commerce and social  
993           media platforms. Other panelists here are speaking very  
994           eloquently on a macro level. I am a hands-on investigator  
995           and so I will speak granularly and make my testimony here as  
996           immediate and tangible as the counterfeit bikes and helmets I  
997           have brought with me.

998           When I started fighting fakes in 2008, I remember being  
999           able to go through the entirety of the threatened parts of  
1000          the eBay cycling section in a day or two. I could look at it  
1001          all and think with satisfaction, my job here is done. Fast  
1002          forward 12 years. As of last night, the eBay cycling section  
1003          has 2.57 million new items for sale and 154,000 used ones.

1004          Of the new items, 1.27 million of them were being sold  
1005          direct from China, half of those being branded; half of them  
1006          are unbranded, generic items I will speak more about later,  
1007          and eBay is one of eighty-five marketplaces and social media  
1008          outlets we are active on. Mrs. Wallach, one of the other  
1009          panelists, referred to the tsunami and that is an exact  
1010          description of what we face.

1011          I am grateful for the longstanding partnership I have  
1012          had with eBay's investigators and VeRO teams. As tough as

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1013 the fight is, it would be so much worse without their  
1014 engagement, not just for counterfeits but also bike theft and  
1015 fraud that threaten consumers. The counterfeit bicycle you  
1016 see here is a model called the Specialized Tarmac SL6. One  
1017 of our athletes, Julian Alaphilippe, led the Tour de France  
1018 for 2 weeks last year on a bike that looked exactly like  
1019 that.

1020 Success and being an innovative technology driver has  
1021 made Specialized the number one target in the cycling  
1022 industry. When our professional athletes win, the  
1023 counterfeiters see a business opportunity. When this  
1024 counterfeit frame and wheels was surrendered to Specialized  
1025 it was a complete bike, so I took it for a ride. The rear  
1026 wheel frame's interface was so badly made, I pulled the rear  
1027 wheel out of the dropouts twice in the first couple miles.  
1028 In my 15-minute, very tentative ride, it showed itself to be  
1029 a terrible bike with all sorts of basic construction problems  
1030 and a front fork with the structural integrity of a wet  
1031 sponge.

1032 We all ride at Specialized and so do our families.  
1033 Safety is so personal to us. These helmets you see here, I  
1034 ride the real version of these fakes and so does my wife, so  
1035 does my daughter, and so does my mother. I am very

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1036 passionate about the danger these counterfeits represent.

1037 And during the question and answer session if someone asks me  
1038 to, I will happily destroy one of these fake helmets in a  
1039 rough approximation of the CPSC test.

1040 I have read all the submitted testimony from my fellow  
1041 panelists and I fully support the big pictures they outline  
1042 as well as the points laid out in the January 24th  
1043 Presidential Memorandum on combating counterfeiting, and I  
1044 would like to highlight a few specifics that would help  
1045 Specialized protect cyclists.

1046 One, platforms need to provide more seller information  
1047 so consumers know who they are buying from and investigators  
1048 like me can peel the onion layers and see what sellers are  
1049 very bad actors. De minimis at eight hundred dollars is way  
1050 too high, we have all been speaking to that. It needs to  
1051 come down. And generic items for sale on e-commerce  
1052 marketplaces that don't bear trademarks must have someone  
1053 take responsibility. The eBay cycling helmet section as of  
1054 last night has 27,406 listings being sold directly from China  
1055 into the United States. Now I am sure some of those helmets  
1056 are fine. I am equally sure that many of them are not.

1057 And Consumer Reports did some investigations on this. I  
1058 have privately emailed CPSC and spoken to every platform

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1059 privately urging action. Also, financial attack vectors are  
1060 crucial. If you can frustrate the counterfeiters moving  
1061 money around that hurts them. People talk about the  
1062 frustration of anti-counterfeit work as being like whack-a-  
1063 mole. I prefer to starve and poison the moles. It works  
1064 very well. Follow the money is an old and effective tactic.

1065 In summary, our main advantage versus the bad guys is  
1066 exactly what we are doing right now, collaboration. We have  
1067 an internal saying here at Specialized: Together we win. I  
1068 deeply believe that. And thank you so much for your time and  
1069 your very thoughtful engagement today.

1070 [The prepared statement of Mr. Love follows:]

1071

1072 \*\*\*\*\*INSERT 10\*\*\*\*\*

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1073 Ms. Schakowsky. Thank you very much.

1074 So we have now concluded the witness opening statements,  
1075 and at this time we will move to member questions. Each  
1076 member will have 5 minutes to ask questions of the witnesses  
1077 and 5 minutes total for your answers. I will start by  
1078 recognizing myself for 5 minutes.

1079 Ms. Wallach, in your testimony you explained how a vast  
1080 majority of e-commerce shipments to the United States skip  
1081 normal, or at least we thought normal, Customs procedures and  
1082 all inspections because they enter the United States under a  
1083 de minimis waiver. I said my goal is to increase CPSC's  
1084 staff presence at ports of entry.

1085 Why do I need to care about de minimis waivers, and what  
1086 actions do you think need to be taken to make sure that we  
1087 protect consumers?

1088 Ms. Wallach. Thank you, Madam Chairwoman.

1089 Number one, why to care about de minimis is that right  
1090 now the policy under which most e-commerce individual  
1091 packages are entering basically makes it almost impossible  
1092 for the Consumer Products Safety Commission or the other  
1093 agencies of the government responsible for health and safety  
1094 to actually screen dangerous goods.

1095 So Customs did a spot inspection in 2017 of de minimis

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1096 goods that would otherwise not be inspected. They found a 43  
1097 percent fail rate. They found a variety of dangerous drugs.  
1098 But they also found many counterfeit and dangerous products.  
1099 In 2018 there was another round of this at seven  
1100 international mail, not shipping, not ocean shipping  
1101 facilities, international mail and express package  
1102 deliveries, and they found again an enormous number of  
1103 violations. Two-thirds of it is from China, Hong Kong is  
1104 second, with Turkey and a couple other countries.

1105 What it means is that all of the CPSC good targeting and  
1106 risk assessment programs basically are skirted. So the  
1107 answer, according to the CPSC, is on three levels. One, they  
1108 need the data. Right now, because of the de minimis data  
1109 runaround, they don't know what the good is to be able to  
1110 figure out if they ought to be inspecting it.

1111 Number two, they need to be basically funded and  
1112 slightly reorganized to be at the places where the de minimis  
1113 shipments come. The surveillance, the import surveillance  
1114 unit found that seventy-five percent of de minimis packages  
1115 come in five ports where express shipments come in, and CPSC  
1116 has people at only one of them part-time at JFK. So all the  
1117 other places where CPSC has folks are the places that used to  
1118 make a lot of sense, the big ports where lots of high-value

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1119 shipments came and they got advance notice of containers.

1120 That is not where these shipments are coming. So they  
1121 need more staff in different places and, currently, only  
1122 Customs has any information about the international mail  
1123 shipments. So the numbers that CPSC has laid out of what  
1124 they face, which -- brace yourself -- they think fifty-seven  
1125 percent of all the products under their jurisdiction that  
1126 come into the country will be coming in under de minimis,  
1127 which if not changed means uninspected, by 2023. Right now,  
1128 that number is -- and that would be sixty million packages.  
1129 Right now, it is thirty-six million packages, thirty-eight  
1130 percent of the stuff that CPSC is supposed to be looking at.

1131 So the change is dramatic. It means the difference  
1132 between goods being inspected and not.

1133 Ms. Schakowsky. Thank you.

1134 So I think I am going to move on. Mr. Love, do de  
1135 minimis waivers affect your company? If products aren't  
1136 inspected at ports of entry, what does that mean for people  
1137 who are buying bicycle helmets and what does it mean for your  
1138 business?

1139 Mr. Love. It absolutely affects us. And what you were  
1140 describing of it, there is five ports where de minimis  
1141 shipments come in. When I have looked into the fake ID buys

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1142 I make of counterfeits, and I have hundreds and hundreds of  
1143 these, I found it is actually only three ports where China  
1144 postal comes into the U.S. Postal Service and all of these  
1145 shipments are de minimis. They are very inexpensive. Even  
1146 that counterfeit bicycle, the fake sold for \$650. That is  
1147 under the eight-hundred-dollar de minimis level, so that  
1148 package that that bike came in would not have been inspected.  
1149 And it is not a huge number, as you pointed out, of places  
1150 that you would need to put a number of people to make an  
1151 impact.

1152 Ms. Schakowsky. Thank you. I am just about running out  
1153 of time. But fake reviews have crowded out real comments.  
1154 They trick consumers into buying unworthy products and they  
1155 put honest sellers at unfair disadvantage. And, let's see.  
1156 Let's see, Mr. Friedman, I wonder if you wanted to comment on  
1157 that.

1158 Mr. Friedman. Look, fake reviews under current law are  
1159 illegal, but the platforms do not have an incentive right now  
1160 to police them. In fact, in many ways the better the  
1161 reviews, the more products they sell, the more money they  
1162 make. That is why we have to completely upend the incentives  
1163 in the system. Even actions that are illegal right now are  
1164 going on day after day after day in the system.

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1165           And I appreciate that the platforms are trying to police  
1166           them, but even as you heard earlier, Amazon talking about  
1167           investing, say, 500 million dollars in policing their system,  
1168           that is a rounding error in their annual revenues. That is  
1169           not what we need from these companies and that is why we need  
1170           both the companies and government to step up and require them  
1171           to take more responsibility.

1172           Ms. Schakowsky. Okay. The 5 minutes goes fast. And I  
1173           now recognize Ranking Member Mrs. Rodgers for 5 minutes.

1174           Mrs. McMorris Rodgers. Thank you, Madam Chair.

1175           During times of panic and anxiety like we are currently  
1176           experiencing with the spread of coronavirus here in the  
1177           United States, and it is hitting my home state Washington  
1178           State particularly hard, bad actors try to prey on consumers.

1179           Mr. Mehta, I imagine you are seeing a lot of traffic on  
1180           your platform right now, both with people worried to leave  
1181           home, scammers trying to sell fake products promising to  
1182           treat or cure coronavirus. What steps is Amazon taking to  
1183           prevent the sale of fake products related to the coronavirus?

1184           Mr. Mehta. Thank you, Ranking Member, for the question.  
1185           It absolutely is a trying time as someone who just flew in  
1186           from Washington 2 nights ago, I can tell you, and there are a  
1187           number of actions Amazon is taking to prevent the spread of

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1188 fake products related to the current coronavirus situation.  
1189 Whether it is products making false claims, products  
1190 attempting to gouge customers, there is no place for false  
1191 claims or price gouging on Amazon.

1192 We have removed proactively more than a million products  
1193 making false claims and tens of thousands of products that  
1194 were attempting to price gouge customers. This is a rapidly  
1195 evolving situation and we are being vigilant in making sure  
1196 we continue to monitor as things develop and that we protect  
1197 customers to the best of our abilities.

1198 Mrs. McMorris Rodgers. Thank you. E-commerce platforms  
1199 and third-party marketplaces online provide undeniable  
1200 benefits to consumers and small businesses alike, but they  
1201 also present opportunities for bad actors. This problem is  
1202 complex and it is clear that the heavy hand of government  
1203 will not solve it. We must leverage technology and  
1204 innovation here.

1205 Ms. Leavitt, can you explain the technological tools  
1206 eBay uses to identify counterfeit listings?

1207 Ms. Leavitt. Thank you for your question. Yes, as I  
1208 mentioned in my opening statement, we are focused heavily on  
1209 prevention, detection, and enforcement. With respect to  
1210 prevention, we have a number of different filtering methods

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1211 in place to try to block listings that we suspect may be  
1212 problematic from appearing on the site. We also have  
1213 different algorithms in place that are monitoring for seller  
1214 behavior and flagging different sellers for review.

1215 So we have the technological means and then we also have  
1216 human review that is taking place. Important to this is the  
1217 partnership that we have with third parties, with brand  
1218 owners, industry associations, government agencies to provide  
1219 the inputs that we need to continually go back and improve  
1220 those methodologies that we use. We also have different  
1221 measures in place to prevent sellers who have been suspended  
1222 from using our services, from reappearing on the site again.

1223 Mrs. McMorris Rodgers. Thank you.

1224 Mr. Mehta, would you address Amazon's use of technology  
1225 addressing counterfeit vetting?

1226 Mr. Mehta. Thank you, Ranking Member, for the question.  
1227 Absolutely. Technology is critical to preventing counterfeit  
1228 at scale. As part of the investments we make, we invest in a  
1229 large amount of not only technology and machine learning to  
1230 constantly scan every listing update as it comes into our  
1231 store, but we have also delivered innovative solutions such  
1232 as Transparency.

1233 As you mentioned in your opening remarks, being able to

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1234 trace every individual product unit from manufacturing  
1235 through the supply chain to the end customer is critical to  
1236 how we solve this at scale. Transparency is a program we  
1237 launched 2 years ago that allows brands and manufacturers to  
1238 apply a unique code to every unit they manufacture. We have  
1239 over 7,500 brands with over 25,000 products that are using  
1240 Transparency that have allowed us to stop 400,000 counterfeit  
1241 products before they were ever shipped to a customer. And it  
1242 is those types of technological solutions that we think  
1243 really will work at scale.

1244 Mrs. McMorris Rodgers. Thank you.

1245 Mr. Myers, as I noted in my opening statement, China is  
1246 the main source of counterfeit and fake products coming into  
1247 the United States. How does the administration revising the  
1248 trade agreement with China combined with DHS enforcement  
1249 efforts provide us an opportunity to reset the fight to  
1250 combat the counterfeit issue? How does it impact Apple's  
1251 thought process when it comes to your own supply chain and  
1252 countering counterfeits coming out of Chinese factories?

1253 Mr. Myers. So I think relative to counterfeiting, you  
1254 know, at Apple customer experience is everything and safety  
1255 comes first for our customers. And we view the counterfeit  
1256 problem as a definite global problem, something that effects

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1257 we see worldwide. We have team members all over the world.  
1258 We monitor seventy-five platforms worldwide in a hundred  
1259 countries, and so China is definitely one that we monitor  
1260 closely. And I think, you know, we certainly think that it  
1261 is not necessarily surprising that that might be the fact  
1262 given the number of consumer electronics that are  
1263 manufactured in that region.

1264 Mrs. McMorris Rodgers. Is the trade agreement helping?

1265 Mr. Myers. I would say that is something that I would,  
1266 you know, I would look into to tell you definitively if that  
1267 is helping and what provisions therein are helping. I think  
1268 that we are focused, certainly, on working in any and all  
1269 capacities and interested in doing so with any government and  
1270 customs agency, law enforcement, et cetera.

1271 Mrs. McMorris Rodgers. Okay, thank you. Thank you all.  
1272 I yield back.

1273 Mr. Cardenas. [Presiding.] The gentlelady yields back.  
1274 The chair recognizes Mr. Pallone, the chairman of the full  
1275 committee, for 5 minutes.

1276 The Chairman. Thank you.

1277 I wanted to start with Mr. Mehta. I wanted to get more  
1278 clarity on Amazon's practice of comingling inventory from  
1279 different sellers. Under this practice from what I

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1280 understand, consumers purchasing a product from a third-party  
1281 seller or even from Amazon directly may unknowingly receive a  
1282 product supplied by a different seller, and I think that can  
1283 create serious problems when unsafe counterfeit products are  
1284 mixed together with authentic goods.

1285 I wrote to Amazon on this issue before, but really did  
1286 not receive an adequate response. So let me ask, yes or no,  
1287 Mr. Mehta. Does Amazon comingle inventory from different  
1288 sellers?

1289 Mr. Mehta. Thank you, Chairman Pallone, for the  
1290 question. By work --

1291 The Chairman. I am only trying to make it quickly  
1292 because I have to go to Mr. -- I have another series of  
1293 questions for --

1294 Mr. Mehta. The question of comingling often is used to  
1295 refer to our practice of virtually tracking different units  
1296 that are identical and shipping the one closest to a  
1297 customer. Yes, we do engage in that practice.

1298 The Chairman. Okay.

1299 Mr. Mehta. As part of our fulfillment.

1300 The Chairman. All right. So is there any way for  
1301 customers to be sure that they are getting the products  
1302 supplied by the seller they see listing the product or to

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1303 know when they aren't?

1304 Mr. Mehta. Thank you for the question. So when we  
1305 virtually track products and deliver, the program is designed  
1306 to deliver the identical product that is closest to a  
1307 customer. We do this because it allows us to deliver  
1308 products to customers faster. We allow any one of our  
1309 sellers to opt out if they don't --

1310 The Chairman. Well, I think the answer is no, right?  
1311 You may not be able to, you know, in other words like an  
1312 example, I will go on and I will see a book that I want to  
1313 buy, right. Now it may be new, it may be old, various  
1314 qualities. Presumably, if you are buying the older one you  
1315 are not going to switch that, I would assume, right?

1316 Mr. Mehta. We do not virtually track and ship the  
1317 nearest product for used products as every used product is  
1318 different.

1319 The Chairman. All right, but with new products,  
1320 presumably it would be the one from the seller, but it may  
1321 not be. That is what you are saying and that is the problem.

1322 Mr. Mehta. Well, what I would say is the root of the  
1323 problem is if there was ever a counterfeit or unsafe product  
1324 in our store, the root of the problem is how did that product  
1325 get available for sale, how is it ever shipped into our

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1326 fulfillment centers? And that is where we put our energy in  
1327 how we proactively stop --

1328 The Chairman. All right. But I mean, I do think that  
1329 is a problem. I think the answer is no. There is no way for  
1330 customers to be sure they are getting their products supplied  
1331 by the seller they see listed or know when they aren't. The  
1332 answer is no at this point, correct?

1333 Mr. Mehta. Currently, we do not display anything to  
1334 customers.

1335 The Chairman. Okay. All right, and let me ask you  
1336 this. In your testimony you say that you proactively provide  
1337 refunds for any consumers who received a counterfeit product.  
1338 If the inventory is comingled, how do you know which  
1339 consumers receive the counterfeit or unsafe product?

1340 Mr. Mehta. Thank you for the question. Again, we refer  
1341 to this as virtual tracking. For every unit in our  
1342 fulfillment centers we know where the source of that unit was  
1343 and where it was sent to. And so --

1344 The Chairman. So a person would get a refund if they  
1345 want it?

1346 Mr. Mehta. I am sorry? I didn't --

1347 The Chairman. In other words, if I say, look, I am  
1348 concerned that the product is counterfeit or it is unsafe,

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1349 you know, I can always get a refund, right?

1350 Mr. Mehta. Every purchase in our store is protected by  
1351 our A to Z guarantee. And so regardless if whether Amazon  
1352 sold the product or a seller sold the product, if that  
1353 customer has a problem and the seller doesn't take care of  
1354 them, Amazon will take care of them. In addition, if a  
1355 customer doesn't come to us and we learn of a counterfeit, we  
1356 know the source of that inventory and we know the customer  
1357 that purchased it, we proactively refund customers.

1358 The Chairman. All right, so you will give them a  
1359 refund. I mean, I think you are saying I will give them the  
1360 refund, but the problem is how are they going to know? I  
1361 mean that is the problem because you don't have any -- there  
1362 is no way for them to know for sure whether that product was  
1363 supplied by a given seller. They may not know it is  
1364 counterfeit.

1365 Mr. Mehta. A customer may be able to determine this, a  
1366 rights owner may tell us, or we may detect it on our own.  
1367 There is a variety of means.

1368 The Chairman. Maybe. Maybe. All right.

1369 All right, Mr. Myers, you stated in your testimony,  
1370 keeping up with all the unscrupulous sellers on online  
1371 marketplaces is like a game of whack-a-mole. You shut one

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1372 down only for another to pop up. You also say that online  
1373 marketplaces should adopt better policies to address repeat  
1374 offenders and make sure they are kicked off marketplaces for  
1375 good. Just tell me, what are some policies online  
1376 marketplaces could implement to accomplish this, you know,  
1377 how effective are you, you know, are they at accomplishing  
1378 this and preventing unsafe counterfeit products from reaching  
1379 consumers?

1380 Mr. Myers. Sure. And I think one of the things and the  
1381 issues are that counterfeiters, the incentives that they have  
1382 are mainly profit. It is not safety and so it is a  
1383 significant issue. And so we think if you look at the  
1384 sellers who are actually selling the actual products, and  
1385 there is better vetting done of who they are, actually  
1386 knowing that they are a reputable business and there is  
1387 something behind the particular entity.

1388 In addition, in the repeat offender problem, I mentioned  
1389 that in my opening statement but that is a significant issue.  
1390 A lot of times individuals who sell counterfeit products will  
1391 have multiple listings, will have multiple sort of stores  
1392 within marketplaces, and it is difficult for an outsider, not  
1393 the marketplace necessarily, to understand what is going on  
1394 and how prolific that and how quickly that seller can

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1395 actually repost something.

1396 But also, for consumers, better identity of who the  
1397 sellers actually are, who am I buying something from and  
1398 understanding who that entity is. In some marketplaces that  
1399 is difficult to determine as well as notifications when a  
1400 counterfeit is identified. Letting the consumer know that  
1401 something they purchased was counterfeit, and then  
1402 information sharing with marketplaces such that we can  
1403 together build criminal cases together that would be helpful  
1404 to do as well.

1405 And then, finally, there are certain high-risk  
1406 categories of products where we have found in our test buy  
1407 programs are highly counterfeited and that they also present  
1408 safety issues. And those are areas we would love to have a  
1409 different way to focus on those types of products where  
1410 authenticity is really something that we should, you know,  
1411 increase the rigor of our review prior to those being listed  
1412 on a marketplace, for example.

1413 There are also other things that can be done. You know,  
1414 I think this hearing is great, again, I think creating an  
1415 opportunity for the public to learn more about the  
1416 counterfeiting problem. I think more resources for law  
1417 enforcement and Customs. We work considerably with both

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1418 agencies and I think more resources there would be incredibly  
1419 valuable.

1420 Design rights, design patents. Today in Customs you  
1421 cannot use design rights to address a counterfeit problem and  
1422 it is a situation in which, you know, counterfeiters become  
1423 more sophisticated and they will remove trademarks from your,  
1424 the counterfeited products so that you can't use your  
1425 trademark or copyright, potentially, to address the issue.  
1426 So having design rights is another tool.

1427 Mr. Cardenas. The gentleman's time has expired.

1428 The chair now recognizes the ranking member of the full  
1429 committee, Mr. Walden.

1430 Mr. Walden. Thank you, Mr. Chairman, and thanks again  
1431 to the witnesses. As I mentioned, we have hearings going on  
1432 upstairs and downstairs, so. I want to again thank all of  
1433 you for being here, and I appreciate the work the President  
1434 has done as well and his administration because I think they  
1435 have been laser-focused on this. And it is clear the  
1436 President is committed to fighting against this massive form  
1437 of illicit trade that inflicts harm on American consumers and  
1438 businesses.

1439 And Chair Schakowsky and now Mr. Chairman, I would like  
1440 to offer the DHS report entitled "Combating Trafficking and

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1441 Counterfeit and Pirated Goods" for the record. Mr. Chairman,

1442 without objection, would you accept that?

1443 Mr. Cardenas. Without objection.

1444 [The information follows:]

1445

1446 \*\*\*\*\*COMMITTEE INSERT\*\*\*\*\*

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1447           Mr. Walden. Mr. Mehta, I am pleased to hear that Amazon  
1448 is supportive of the administration's efforts on this complex  
1449 issue and, in particular, many of the recommendations  
1450 included in that DHS report. Can you explain some of the  
1451 practices that Amazon implements that are suggested in the  
1452 report?

1453           Mr. Mehta. Thank you, Ranking Member, for the question.  
1454 We agree. There is a number of best practices in that report  
1455 that we already implement today or plan to in the future  
1456 including the enhanced vetting of sellers, the efficient and  
1457 fast notice and takedown processes, the higher qualification  
1458 requirements for risky products and who can sell those. And  
1459 we would also like to see even above and beyond that  
1460 increased enhanced prosecution for counterfeiters. That as  
1461 many folks have talked about are about resources for the  
1462 Department of Justice and other law enforcement agencies.

1463           But, in addition, efforts like the current  
1464 administration's Phase 1 agreement that is requiring China to  
1465 increase prosecution for counterfeiters, we need to strike in  
1466 more countries around the world including in America.

1467           Mr. Walden. Is that a good proposal what the  
1468 administration is doing with China?

1469           Mr. Mehta. I am not intimately familiar with all the

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1470 details.

1471 Mr. Walden. All right.

1472 Mr. Mehta. But specifically as it relates to  
1473 counterfeiting and increasing the penalties and stopping the  
1474 manufacturing and distribution in China, we absolutely  
1475 support that initiative.

1476 Mr. Walden. Are there other big state actors or other  
1477 countries where this is prevalent that we need to focus on?  
1478 I mean we focus on China a lot, but.

1479 Mr. Mehta. You know, thank you for the question.  
1480 Unfortunately, we find bad actors in every country, whether  
1481 it is China, whether it is Russia, Ukraine, but also America.

1482 Mr. Walden. Yes.

1483 Mr. Mehta. And so we have got to stop counterfeiters  
1484 everywhere.

1485 Mr. Walden. Wherever they are, okay. Then in your  
1486 testimony you reference Project Zero, which is a new program.  
1487 It gives power to brands and rights owners to remove  
1488 counterfeits directly from the platforms themselves. Can you  
1489 speak about the verification process for brands receiving  
1490 access to remove these counterfeit listings?

1491 Mr. Mehta. Thank you for the question. So Project Zero  
1492 is a new program and it really is a way for us to partner

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1493 with and empower rights owners so collectively we can drive  
1494 counterfeit to zero. We have over 9,000 brands that are  
1495 already participating in Project Zero. It includes automated  
1496 protections, product serialization capabilities, but also  
1497 allows brands to directly remove a counterfeit from our  
1498 store. They don't need to report it to us and have us  
1499 investigate. We have now given them the power. It does mean  
1500 a great deal of power that now sits with rights owners to  
1501 control what is in our store.

1502 Our vetting includes vetting who the brand is, the  
1503 accuracy of their submissions, and we continue to monitor  
1504 that over time to ensure that type of tool is not used to  
1505 harm small or medium businesses.

1506 Mr. Walden. Yes. Yes, you don't want an  
1507 anticompetitive situation to crop up either.

1508 So, Mr. Love, bicycles and related accessories are items  
1509 at high demand and especially for many of my constituents in  
1510 the great state of Oregon. Anybody who ever visits my  
1511 colleague, Mr. Blumenauer, will walk away with a plastic  
1512 bicycle pin. They rely on this for recreation and everyday  
1513 transportation.

1514 So, I understand helmets are a highly counterfeited good  
1515 on e-commerce marketplaces. Are there any tips we can arm

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1516 consumers with that might help them identify the counterfeit  
1517 bicycle accessories before they are purchased? Turn on your  
1518 mike there.

1519 Mr. Love. Absolutely. There are a couple of things you  
1520 can do. Specifically, for Specialized products we have a  
1521 part of our website on specialized.com at the bottom, it is  
1522 called "counterfeit awareness," at the very, very bottom of  
1523 the opening page. And you can look, and if you have a helmet  
1524 you can ID it based on some things we talk about.

1525 The problem with putting items like this online, which  
1526 we do, is the counterfeiters are pretty web-savvy, so when  
1527 they see that they will fix the problem. So the biggest  
1528 thing I can tell -- and I have seen that. I have seen that.

1529 Mr. Walden. Yes.

1530 Mr. Love. Yes, the biggest thing I can tell customers  
1531 to do is to be very savvy. And all of you have bike shops in  
1532 your neighborhoods. You can think of them right down -- I  
1533 know many of the dealers in Oregon. You can think of the  
1534 bike shops down your street.

1535 Mr. Walden. Literally.

1536 Mr. Love. Yes, visit those businesses.

1537 Mr. Walden. A block away.

1538 Mr. Love. And buy from them.

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1539 Mr. Walden. Yes.

1540 Mr. Love. And if you are going to buy online in the  
1541 marketplace, use common sense. Counterfeits fly in flocks.  
1542 You won't just see fake Specialized helmets. You will also  
1543 see fake helmets from a number of companies. And for some  
1544 reason, the counterfeit Specialized helmets and fake Oakleys  
1545 always go together. I don't know why.

1546 Mr. Walden. All right.

1547 Mr. Love. So just use your common sense and if you see  
1548 a two hundred dollar helmet for sale for fifty bucks, hmm.

1549 Mr. Walden. Hmm.

1550 Mr. Love. So.

1551 Mr. Walden. I think I said that in my opening  
1552 statement. Maybe yeah, too good of a deal is too good of a  
1553 deal.

1554 Thank you, Mr. Chairman, and thanks to all of you for  
1555 the work you are trying to do to protect consumers. We join  
1556 you in this effort, and I yield back the balance of my time.

1557 Mr. Cardenas. The gentleman yields back. The chairman  
1558 recognizes, I will recognize myself for 5 minutes.

1559 All the burden seems to be on the patent or copyright  
1560 holder to police the online marketplace for infringing and  
1561 unsafe versions of products. For startups and small

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1562 businesses that might just, who might just have a few  
1563 employees, this can divert significant resources and make it  
1564 almost impossible to do anything about it. It is unfair that  
1565 bad actors can so easily swoop in and enjoy all the success  
1566 without shouldering any risk or investing in any of the  
1567 research or design or testing of their product.

1568           Take Magformers, the popular toy that young people can  
1569 use. I have some knockoffs here and I have some originals.  
1570 And the bottom line is, when you look at them you cannot tell  
1571 the difference. As an adult you can't tell the difference  
1572 and as a child wanting to play with them, they probably could  
1573 care less if they are originals or not. And it is really  
1574 important to understand that for example, the knockoff that I  
1575 have here, it is broken, and the issue here is that you have  
1576 these strong magnets, it is even hard to get a hold of one.

1577           These strong magnets, once it breaks can get and be  
1578 ingested by a child. This is very dangerous. It might not  
1579 seem like much. You would probably think that the magnet  
1580 will just pass through. But no, the child has to go through  
1581 a dangerous surgery if they are found to have swallowed one  
1582 of these magnets.

1583           In many districts across America, you have children who  
1584 have swallowed these magnets. For example, to date we have

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1585 recorded at least 1,600 poison control centers, excuse me,  
1586 1,600 cases in our poison control centers just for these  
1587 kinds of magnets that have been ingested by children all  
1588 across America. This is something that affects rural  
1589 America, big city America, this affects our most vulnerable  
1590 population, our innocent children.

1591 Mr. Mehta, in your testimony you talk about a new brand  
1592 protection program called "Amazon Transparency."  
1593 Transparency allows brands to use bar code technology to  
1594 protect their brand from counterfeits and enable customers to  
1595 authenticate products. How much does it cost for businesses  
1596 to participate in this program?

1597 Mr. Mehta. Thank you for the question, Congressman.  
1598 The Transparency program has two primary costs for brands  
1599 that choose to use it and one is a per unit fee that they pay  
1600 Amazon that ranges between one penny to five pennies per  
1601 unit. It decreases for higher volume. And then, secondly,  
1602 brands will have some implementation costs, because the glory  
1603 of the Transparency program is that as part of the  
1604 manufacturing process, rather than having the same UPC code  
1605 or the same ISBN code on every product, brands will apply a  
1606 unique Transparency code on every product that uniquely  
1607 identifies it. And when products are sold --

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1608 Mr. Cardenas. So when you say "per product," it is like  
1609 this comes in a package of a few units. So what you are  
1610 saying is the bar code that is on the outside box that  
1611 consists of one unit?

1612 Mr. Mehta. That box would have a unique code.

1613 Mr. Cardenas. And that is considered one unit. That is  
1614 one box.

1615 Mr. Mehta. And that is one unit, so.

1616 Mr. Cardenas. Not if this has a hundred units inside  
1617 the box, it is the actual container.

1618 Mr. Mehta. The box.

1619 Mr. Cardenas. Okay, go ahead.

1620 Mr. Mehta. So it goes on the packaging or the outside  
1621 of the product, or a swift tag if it is a, you know, apparel  
1622 item, and that code uniquely identifies that package.

1623 Mr. Cardenas. Okay. Does this cost -- is that cost  
1624 exactly what it costs Amazon to administer this?

1625 Mr. Mehta. That cost is basically to cover our variable  
1626 costs for maintaining that program and scanning every one of  
1627 those products. We don't design this program as a place to  
1628 make profit. It really is to help brands and us.

1629 Mr. Cardenas. So Amazon is a break -- this is a  
1630 breakeven technique, technology and opportunity for Amazon?

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1631 Mr. Mehta. This is a program and technology that is  
1632 about how we better protect customers and better protect  
1633 brands.

1634 Mr. Cardenas. But when it comes to the costs, because  
1635 there is costs. I talked about small businesses earlier.

1636 Mr. Mehta. Yes.

1637 Mr. Cardenas. All I am saying is, so what you are  
1638 telling us on the record is this is a breakeven system within  
1639 Amazon.

1640 Mr. Mehta. What I would tell you today is this program  
1641 is not even breakeven. We lose money on that program, but we  
1642 do it because --

1643 Mr. Cardenas. Okay, thank you. It could have saved us  
1644 a whole minute if you would have just told me that from the  
1645 beginning. I am glad to hear that. Thank you so much for  
1646 your commitment.

1647 Mr. Love, does Specialized's use of Amazon Transparency,  
1648 is that something that you are aware of?

1649 Mr. Love. We don't sell on Amazon, so -- and we have no  
1650 plans to. So it is a -- we are committed to our local bike  
1651 shop network for the distribution of our products.

1652 Mr. Cardenas. Okay, thank you.

1653 Ms. Wallach, how can we make sure all the burden isn't

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1654 on the small businesses and that the online marketplaces and  
1655 law enforcement are doing their part?

1656 Ms. Wallach. Thank you, Mr. Cardenas, for that question  
1657 and that is an excellent question. There need to be changes  
1658 on two levels. One is for the government changes with  
1659 respect to the funding and the authorities for the Consumer  
1660 Products Safety Commission that I reference in my written  
1661 testimony, as well for the FTC to step up and do its job. It  
1662 has its authorities. And for Customs to make some of the  
1663 changes so that the other agencies can have the data.

1664 However, as well there is a strong responsibility on the  
1665 companies. And with respect to some of the programs Mr.  
1666 Mehta is mentioning, those are some of the same responses  
1667 made when the Wall Street Journal did its scary expose about  
1668 all the products it found. And just over the weekend I went  
1669 through the Prohibited Products List and found six different  
1670 prohibited categories of goods on the website, so that it is  
1671 not clear that the technological fixes are addressing the  
1672 safety issues. And, moreover, Amazon clearly has very  
1673 powerful technology to be able to deal with these problems  
1674 because since then, the times I have gone on Amazon I am  
1675 getting advertisements for small crossbows, flares, and other  
1676 prohibited items.

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1677 Mr. Cardenas. Thank you very much. Next, the chairman  
1678 recognizes Mr. Burgess for 5 minutes.

1679 Mr. Burgess. And I thank the chair.

1680 Mr. Friedman, I noted in your testimony you referenced  
1681 counterfeit airbags. This subcommittee did some of the  
1682 original work and it has continued to do work on the Takata  
1683 airbag and the subsequent recalls. In fact, just this  
1684 weekend I learned that a manufacturer said that their airbag  
1685 was un-recalled, and then I was informed by NHTSA that a  
1686 recall can't be recalled, so I am fighting that fight on  
1687 another front.

1688 But counterfeit airbags are really something that was  
1689 unknown to me until perhaps a year and a half ago. There was  
1690 a story widely reported on our television stations back in  
1691 the Dallas-Fort Worth market and on the radio. I have become  
1692 very familiar with the case. I will say upfront, I never was  
1693 able to obtain a privacy waiver from the family so I can't  
1694 talk, don't feel I can talk about specifics even though the  
1695 case was mentioned in the news media.

1696 But it dealt with a crash in 2017 involving a  
1697 counterfeit airbag in a 2013 Kia Soul. I did contact the  
1698 National Highway Traffic Safety Administration. They wrote  
1699 me back and they have issued recommended dealer guidance for

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1700 managing counterfeit airbags, along with the fact that an  
1701 airbag could be counterfeit. As you might imagine, in this  
1702 crash in 2017, the counterfeit airbag not only did not  
1703 deploy, it had nothing within the guts of the airbag to  
1704 deploy. It was filled with a shop rag and some other junk,  
1705 but was not really an airbag.

1706           The car had been in a crash, the airbag had deployed,  
1707 insurance had almost totaled it but not quite, went to a  
1708 repair shop, got this aftermarket item inserted, and then was  
1709 sold on a car lot. And an unsuspecting consumer bought the  
1710 car and his daughter subsequently was involved in a very,  
1711 very serious accident and did not survive. I don't know  
1712 whether it was survivable with a real airbag, but I know it  
1713 wasn't survivable with a counterfeit airbag.

1714           Now the reason I am bringing this up -- and, Madam  
1715 Chair, I am going to ask to make a copy of this letter  
1716 available for the record. NHTSA did say they are going to be  
1717 vigilant and they are going to coordinate across state,  
1718 local, and federal government agencies. To date, the full  
1719 scope of the problem remains difficult to assess. Industry  
1720 plays a crucial role in this effort and NHTSA is therefore  
1721 pleased that the Automotive Anti-Counterfeiting Council has  
1722 formed to work on identifying and eliminating counterfeit

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1723 auto parts. So I have gone a long way to say that their  
1724 website is A2C2.com. It is a rare problem, but it can be a  
1725 fatal problem when encountered. And again, I would ask that  
1726 a copy of this be made available for the record.

1727 Now, Mr. Mehta, just before my time expires, I was also  
1728 intrigued in your testimony. You talked a little bit about  
1729 what you were doing with the -- in the realm of copyright  
1730 infringement or patent infringement. This committee also  
1731 worked a lot on patent letters. In fact, there was a bill  
1732 out of this subcommittee that I don't think ever got to  
1733 completion, but it was the Targeting Rogue and Opaque Letters  
1734 Act, or the TROLL Act, interestingly named, of several years  
1735 ago.

1736 You talk about this voluntary effort that Amazon has.  
1737 Parties put forward a deposit and it is sort of like the  
1738 winner gets the -- if there is a dispute, the winner gets  
1739 their money back and it avoids having to go through the  
1740 litigation process. I do wonder if people will give up the  
1741 litigation process because it does seem to be very profitable  
1742 to some people, probably our brethren in the legal  
1743 profession. And I know the Eastern District of Texas has  
1744 been one of the most active places for these types of  
1745 lawsuits.

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1746           But it is significant and it is a problem. I am just  
1747           intrigued by your approach because it is not a legislative  
1748           approach, it is a voluntary approach and I just wonder what  
1749           type of success you have had with it.

1750           Mr. Mehta. Yes. Thank you, Congressman, for the  
1751           question. And the program you are referring to is a Utility  
1752           Patent Neutral Evaluation program. The challenge with  
1753           utility patents, as you note, in some cases there are  
1754           absolutely patent owners who want to go through the  
1755           litigation and they will go through the cost of that given  
1756           the significant value a formal court proceeding will provide  
1757           them if successful.

1758           The challenge is, there are many utility patents that  
1759           are not worth that effort for rights owners. And because  
1760           utility patents are so complex, it is tough for marketplaces  
1761           or stores or service providers to figure out which utility  
1762           patents to enforce. So this program allows each entity to  
1763           put up a deposit. If either entity doesn't put up a deposit,  
1764           they lose, and that deposit pays for an outside  
1765           evaluator/mediator to look at the case and make a decision.

1766           And Amazon will uphold that case. That doesn't uphold  
1767           in a court of law, but it makes a decision for Amazon. And  
1768           we have noticed a number of other stores who watch Amazon's

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1769 decision and use that to make the same utility patent  
1770 decision on their sites.

1771 Mr. Burgess. So it has been useful.

1772 Mr. Mehta. It has been super useful, and the rights  
1773 owners that have been part of that program, so far, love it  
1774 because it takes a process that can be years and millions of  
1775 dollars --

1776 Mr. Burgess. Right.

1777 Mr. Mehta. -- and turns it into weeks and no cost if  
1778 they are successful.

1779 Mr. Burgess. Very good. I thank you. I yield back.

1780 Mr. Cardenas. The gentleman yields back. The chairman  
1781 now recognizes Ms. Blunt Rochester.

1782 Ms. Blunt Rochester. Thank you, Mr. Chairman, and thank  
1783 you to the panel. As Mr. Pallone stated in his opening, it  
1784 is fitting that during National Consumer Protection Week we  
1785 discuss the significant safety concerns of online counterfeit  
1786 products. After all, between 2015 and 2019, e-commerce  
1787 doubled, and in fiscal year 2019, the Customs and Border  
1788 Patrol seized \$1.5 billion in fake or pirated goods.

1789 It is obvious that the number of seized fake products is  
1790 merely a fraction of the total number of faked goods. Many  
1791 studies suggest counterfeits have proliferated the online

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1792 marketplace. They also suggest that virtually everyone in  
1793 this room has purchased a potentially hazardous counterfeit  
1794 product. That should give us all pause. And while there is  
1795 certainly a discussion about stolen intellectual property,  
1796 these counterfeits pose a significant public health and  
1797 safety risk. Fake phone chargers can cause fires. Batteries  
1798 that burst can do harm. And even counterfeit water filters  
1799 are being sold. This is especially timely as many members of  
1800 this committee and constituents in Delaware understand having  
1801 access to safe and clean drinking water is a major concern.

1802 Currently, it appears refrigerator filters are the main  
1803 culprit, but filtration manufacturers like DuPont and Ecosoft  
1804 are increasingly reporting other counterfeit filters like  
1805 reverse osmosis systems. With increasing concerns for  
1806 contaminants like lead, arsenic, and most recently PFOA and  
1807 PFAS, this trend is worrisome.

1808 Mr. Friedman, how widespread is the counterfeit water  
1809 filter problem online and how can Congress facilitate  
1810 improved transparency and accountability?

1811 Mr. Friedman. Thank you very much for the question. We  
1812 see this as a really serious issue. Back in 2018, we looked  
1813 at this very carefully because we were trying to help  
1814 consumers get water filters that were less expensive. And

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1815 what we found is we really had a hard time finding brands on  
1816 Amazon that were certified to international quality and  
1817 safety standards at all. I mean that is just shocking. It  
1818 is shocking that that was not a requirement. It is shocking  
1819 that that also wasn't always clearly disclosed. Only one of  
1820 the aftermarket brands had a proper, verifiable certification  
1821 for its filter, and these were the only ones we identified  
1822 that even came close to matching the high standards that most  
1823 refrigerator brand filters need.

1824 So it is a serious issue. One, we need to call on all  
1825 of these platforms to step up. They are investing,  
1826 effectively, pennies when they should be investing dollars in  
1827 informing consumers, getting these products off their  
1828 platforms, and putting their consumers instead of their  
1829 profits first.

1830 And in terms of Congress, I think it is a mix of things.  
1831 One, again they have to be held accountable for when they  
1832 knew or should have known about these problems, and they have  
1833 to be required to actively police these problems. Until  
1834 then, the incentives are upside down and their innovations  
1835 are going to tend to go towards marketing more than they are  
1836 going to go towards protecting their consumers.

1837 Ms. Blunt Rochester. Thank you.

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1838           And, Ms. Wallach, I wanted to build on the points of Mr.  
1839 Pallone and Ms. Schakowsky. I understand that counterfeiters  
1840 avoid scrutiny by sending the filter and packaging in  
1841 separate shipments. How does this avoid scrutiny by CBP and  
1842 do counterfeiters employ other tactics?

1843           Ms. Wallach. Thank you, Congresswoman, for the  
1844 question. Yes, by sending in separate packages, the package  
1845 is considered under the de minimis Customs level and  
1846 therefore skirts all of the normal Customs procedures. Not  
1847 only aren't the goods inspected, some 1.8 million packages  
1848 each day cleared by de minimis, individual packages that then  
1849 go on to consumers and that doesn't count the 475 million,  
1850 annually, international postal packages. That is just the  
1851 express consignment hubs and the air shipments.

1852           All of that goes uninspected because, in part, the data  
1853 is not even required to be able to figure out. For instance,  
1854 if you knew that filters were a crisis that would go into the  
1855 Office of Import Surveillance at CPSC to start targeting, to  
1856 look for the actual either tariff code or SIC product code  
1857 for that category of goods to start inspecting. Except that  
1858 basic information isn't even provided, so there is no way to  
1859 actually get on top of it.

1860           Ms. Blunt Rochester. Thank you.

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1861           And, Mr. Mehta, I will follow up with you because I only  
1862           have about 10 seconds left, but I wanted to ask if you could  
1863           talk about your seller verification process. So in 7  
1864           seconds, if you could.

1865           Mr. Mehta. Yes. So we have a very robust seller  
1866           verification process. It includes a number of verifications  
1867           about the identity of a person, their payment instruments,  
1868           where they are located. And in addition, we invest  
1869           tremendously in machine learning to be able to monitor  
1870           behaviors or signals, the devices, the places these folks are  
1871           signing in from to detect related accounts and bad actors  
1872           that we detected in the past explicitly to prevent whack-a-  
1873           mole type of situations.

1874           Ms. Blunt Rochester. I know my time has expired and I  
1875           will follow up with you just to make sure that we talk about  
1876           disproportionately targeting, you know, marginalized  
1877           communities with algorithms. We have a lot of concerns about  
1878           those issues as well. Thank you and I yield back.

1879           Mr. Cardenas. The gentlewoman very cleverly yields  
1880           back. The chairman now recognizes Mr. Guthrie.

1881           Mr. Guthrie. I thank the chair for the recognition.

1882           And, look, these questions are for Mr. Mehta and Ms.  
1883           Leavitt. Last year, Dr. Burgess has left, but I went to

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1884 visit the JFK International Mail Facility at his request  
1885 because when you are there it is just amazing what the volume  
1886 of product that flows through, and there were counterfeit  
1887 items they found and some of them on your platforms.

1888 The second thing, I have three Amazon facilities in my  
1889 district. I have been there. It is just, when you go  
1890 through it is just the sheer volume, how big our economy is  
1891 and how big a player Amazon is and the volume moving forward.  
1892 I know in your testimonies, I know both of eBay and Amazon  
1893 have tools that try to figure out how to prevent counterfeit  
1894 items from coming through.

1895 First, Mr. Mehta, since your Amazon has a lot of  
1896 employees in my district, and Ms. Leavitt, if you would kind  
1897 of describe your processes and how the efforts that you have  
1898 underway. And also I notice that a lot of items were from  
1899 China and it seemed China was a big culprit in counterfeit,  
1900 and do you agree with that and what process do you have to  
1901 make sure things that come from China are authentic?

1902 So, Mr. Mehta, if you go first.

1903 Mr. Mehta. Yes. Thank you for the question,  
1904 Congressman. We want to prevent counterfeits regardless of  
1905 the country they come from. We outlaw them. We have  
1906 significant technology investments that scan every listing,

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1907 every seller before they are able to sell in our store,  
1908 before a listing is able to be published and available for  
1909 sale.

1910 In addition, we have programs like Transparency that  
1911 every unit that shows up at one of our fulfillment centers we  
1912 scan that product and know whether it is authentic or not,  
1913 and can reject the product before it even ends up being  
1914 stored in our fulfillment centers and potentially sold to  
1915 someone. But there is more we can do here. As you note, and  
1916 I am glad you visited one of our fulfillment centers as well  
1917 as the Customs facilities, there is more we can do to partner  
1918 with Customs in being more effective.

1919 There have been comments earlier about requiring pre-  
1920 arrival information for every shipment whether it is above or  
1921 below the de minimis threshold. We are currently engaged in  
1922 a pilot as part of the Section 321 with Customs and Border  
1923 Patrol not only to get some of that information, but for  
1924 Amazon to provide the information we have so that  
1925 collectively we can aid Customs in finding potentially risky  
1926 products at the ports or at the facilities where those  
1927 products come in.

1928 And, in addition, when Customs finds an issue, we would  
1929 love to have them share information with us because we may

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1930 have other shipments from that same bad actor. We may be  
1931 able to shut their account down. We may be able to hold  
1932 their funds and take greater action that can put together a  
1933 better criminal case to go after those bad actors.

1934 Mr. Griffith. And, Ms. Leavitt, and I will say it this  
1935 way because I know the Customs situation, so maybe  
1936 domestically. One of the big issues in my area is people who  
1937 distill spirits, bourbon, Kentucky bourbon, particularly the  
1938 high-end bourbons that people are buying not from a  
1939 distillery, but from somebody who goes and buys a bottle of  
1940 Pappy Van Winkle and they put it on the marketplace, or one  
1941 of the Heaven Hill Brands. I should list all my  
1942 distilleries, shouldn't I?

1943 But, and so it is going from one person to another, but  
1944 it tends not to be not the real product, counterfeit. So how  
1945 do -- I know you are not supposed to sell alcohol on your  
1946 site, but I don't know if people do. And if they do, how do  
1947 you try to trace this down and make sure? Not just bourbon,  
1948 but products from me to you, domestically, are also not  
1949 counterfeit.

1950 Ms. Leavitt. So, in that instance where there is a good  
1951 that is maybe stolen and then sold under a different brand,  
1952 we have a team who is dedicated to working with law

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1953 enforcement. They are our global asset protection team and  
1954 they are focused both on proactive investigations, so they  
1955 have their own internal referrals from different sources  
1956 throughout the business. They have different analytics and  
1957 tools that they use to essentially find that behavior and do  
1958 investigations and if it is -- if it looks to be a more  
1959 serious level case, then they will work to refer those cases  
1960 out to law enforcement.

1961 And then vice versa, if law enforcement is aware of that  
1962 type of activity, they can make data requests through our --  
1963 we have an external facing portal that law enforcement uses  
1964 to request data on users that they are conducting criminal  
1965 investigations for, and then they will also share additional  
1966 information from investigations just to help us, you know,  
1967 both address the issue at hand, but then also implement  
1968 proactive measures so that we can prevent those types of  
1969 situations from arising in the future, both on the listing  
1970 product-specific level, but then also the seller level as  
1971 well.

1972 Mr. Griffith. So, Mr. Mehta, your fulfillment center is  
1973 about five miles from Jim Beam, so how do you ensure your  
1974 fellow corporate citizens of Bullitt County that their  
1975 products aren't being counterfeited?

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1976           Mr. Mehta. Yes, so we invest heavily in that. You  
1977 know, as I mentioned in my testimony, last year in 2019 we  
1978 invested over \$500 million in preventing fraud and abuse, and  
1979 that is primarily focused on proactive means. And so, every  
1980 listing, every seller that attempts to enter our store, we  
1981 are scanning multiple data points. We have expert human  
1982 investigators, but we also have advanced machine learning  
1983 that is scanning every one of these.

1984           It is the reason that last year we stopped over six  
1985 billion suspected bad listings before they were published to  
1986 our store, and over 99.9 percent of pages viewed in our store  
1987 have never received or reported counterfeit infringement.  
1988 But it is not perfect. We have got to keep working until we  
1989 get that to a hundred percent and zero counterfeit.

1990           Mr. Griffith. Well, thank you very much. And my time  
1991 has expired, I yield back.

1992           Mr. Cardenas. The gentleman yields back. The chair  
1993 recognizes Mr. Rush.

1994           Mr. Rush. I want to thank you, Mr. Chairman. Mr.  
1995 Mehta, what is Amazon doing to ensure proper compliance with  
1996 state alcohol laws and regulations, including how the  
1997 purchaser receives the product, the price and terms of the  
1998 sale, and the limits on retail sales imposed by the states?

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1999           Mr. Mehta. We require all sellers in our store, whether  
2000           that is Amazon the seller or the third-party sellers in our  
2001           store, to adhere to all applicable laws, regulations, and  
2002           Amazon policies. In addition, we invest tremendous resources  
2003           in proactively screening every product before it is published  
2004           to our store in looking for signs of potential infringement  
2005           or violation of policies.

2006           And we constantly monitor over forty-five million pieces  
2007           of feedback that we receive every week from customers,  
2008           regulators, and others for anything we have potentially  
2009           missed to learn from that and figure out how we proactively  
2010           prevent that in the future.

2011           Mr. Rush. I am also concerned that bad actors are using  
2012           social media sites like Facebook to recruit people to leave  
2013           false positive reviews of products that are often in your  
2014           store. And as a result, these bad actors are able to make  
2015           shoddy products look more legitimate, and this is a practice  
2016           that results in both defrauding and creating great risk for  
2017           consumers and also manufacturers.

2018           What is Amazon doing to combat these practices?

2019           Mr. Mehta. Thank you, Congressman, for that question.  
2020           It is absolutely true that bad actors, one of the tactics  
2021           they attempt to use to generate fake reviews is they go to

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2022 social media sites. They create private groups with  
2023 otherwise honest, American customers, and offer incentives or  
2024 free product to try and get positive reviews. The challenges  
2025 in these situations is often that communication in that  
2026 activity is only known by the social media sites.

2027 Amazon doesn't have any data about what is going on, we  
2028 just see these reviews coming up on our site from otherwise  
2029 honest-looking customers. There is a great deal we do to  
2030 look for signs or behaviors that look abusive to us. We  
2031 report those to social media sites to get those groups broken  
2032 up and taken down. It doesn't always move as fast as we  
2033 would like, but this is absolutely another area where we have  
2034 all got to partner together, and social media sites have to  
2035 do more to detect such abusive behavior on their sites and to  
2036 partner with the rest of us to stop those types of fake  
2037 reviews.

2038 Mr. Rush. So has Amazon made other manufacturers and  
2039 customers aware of these shoddy practices? How are you all  
2040 proactively alerting and informing the buying public and also  
2041 manufacturers of these practices?

2042 Mr. Mehta. Thank you, Congressman. Yes, so when  
2043 customers may have thought they were just getting a free  
2044 product or a heavy discount to provide a positive review, if

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2045 we detect that we will warn that customer. We will notify  
2046 them that such practice is not okay. It violates our  
2047 policies, and in some cases violates laws. If there is  
2048 continued fake review activity, we will ban customers from  
2049 being able to leave reviews or Q&A responses or other types  
2050 of community content.

2051 And, similarly, for every one of the sellers and brands  
2052 and manufacturers in our store who are selling products, they  
2053 are made aware of these policies and if they don't take the  
2054 appropriate action, we will close their accounts. We have  
2055 had over a thousand defendants that we have gone after  
2056 through civil litigation. We have provided information to  
2057 the FTC and are partnering with them to similarly stop these  
2058 types of practices.

2059 Mr. Rush. Well, Mr. Friedman, I am very much  
2060 appreciating your mention of existing federal limits on lead  
2061 and the use of small, high-powered magnets in toys. In '08,  
2062 I was the chairman of this subcommittee and drafted the  
2063 Consumer Product Safety Improvement Act in response to a  
2064 plethora of reports of children being injured by lead, high-  
2065 powered magnets and on the dangers that were present in toys.  
2066 Needless to say, I am severely disappointed that here, some  
2067 12 years later, we still, this practice is still going on.

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2068           Given that these dangerous products are most often  
2069           coming from third-party sellers, should online marketplaces  
2070           collect and record information about third-party sellers like  
2071           the name, location, and contact information to ensure that  
2072           people are purchasing what they intend to and not an  
2073           imitation or a knockoff?

2074           Mr. Friedman. Absolutely, they should. And, Mr. Rush,  
2075           I also just want to thank you for your leadership on consumer  
2076           protection in general and on these important areas. I would  
2077           also like to say it is great to hear about what a lot of the  
2078           companies are doing to help consumers, but the fact of the  
2079           marketplace is it hasn't been enough. People are being  
2080           exposed to these dangerous products, they are not investing  
2081           enough, and they need to do a lot more.

2082           Mr. Rush. I want to thank you. I ran out of time.  
2083           Thank you so much. I yield back the rest of my time.

2084           Ms. Schakowsky. The gentleman yields back, and now Mr.  
2085           Carter is recognized for 5 minutes.

2086           Mr. Carter. Thank you, Madam Chair. And thank all of  
2087           you for being here. This is certainly an important subject,  
2088           one that we are obviously very interested in and want to help  
2089           in every way we can.

2090           I want to start off by saying that the ranking member,

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2091 Ms. McMorris Rodgers, in her opening statement she talked  
2092 about emerging technology. And, Mr. Mehta, I know that you,  
2093 or I should say Amazon has invested a lot of money, a lot of  
2094 employees in this. I am just wondering, obviously, you are  
2095 using AI as well? Are you doing that? Is this in any way a  
2096 part of your game plan?

2097 Mr. Mehta. Thank you, Congressman, for the question.  
2098 AI and machine learning is absolutely a part of the game  
2099 plan, as is the use of expert human investigators. As we  
2100 address these problems and prevent counterfeits from entering  
2101 our store, the only way that we can collectively stop  
2102 counterfeits at scale is through technology. Bad actors are  
2103 using technology. They have hired their own engineers and  
2104 their own scientists. These organized criminal organizations  
2105 are attempting to find any crack between our systems.

2106 So we absolutely use technology, whether it is in the  
2107 vetting of our sellers and the way we were able to stop two  
2108 and a half million accounts that bad actors attempted to  
2109 create last year, or the six billion bad listings that we  
2110 stopped before they were published to our store. The only  
2111 way we do this is through technology that is mining hundreds  
2112 of different signals about the person, about their product,  
2113 about information that brands and rights owners about their

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2114 brands and their logos and their distribution that helps us  
2115 be more effective in stopping counterfeits and unsafe  
2116 products.

2117 Mr. Carter. Great, thank you.

2118 Ms. Leavitt, what about you? Does your company utilize  
2119 AI at all?

2120 Ms. Leavitt. We have made significant technology  
2121 investments as well and continue to look to do so in 2020.

2122 I would like to note one thing about AI and machine  
2123 learning. I think an important part of all of this is  
2124 collaboration, because our AI or machine learning is only as  
2125 good as the information that we are feeding into it. And so,  
2126 I think, increasingly, it is important that the platforms are  
2127 coordinating with social media sites, with the brands, with  
2128 consumer protection groups, to make sure that the data and  
2129 the inputs that we are using to build and to strengthen and  
2130 to modify those technologies is accurate and up to date.  
2131 Because I think we all know we wouldn't be here today unless  
2132 counterfeiters were pretty savvy, right?

2133 Mr. Carter. Right.

2134 Ms. Leavitt. And they know what to do, they know how to  
2135 evade. And so, I think that is an important piece that when  
2136 we talk about technology. Yes, technology is extremely

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2137 important, but the collaboration that goes into building that  
2138 technology amongst all the stakeholders is key.

2139 Mr. Carter. And that is a good point and I appreciate  
2140 you bringing it up.

2141 To kind of dovetail onto that, Mr. Mehta, tell me about  
2142 your Amazon Brand Registry. How many products do you have on  
2143 that and how is that working?

2144 Mr. Mehta. Thank you, Congressman, for the question.  
2145 So we launched the Amazon Brand Registry in 2017. It is a  
2146 completely free service for any rights owner with a  
2147 registered trademark. To date, we have over 350,000 brands  
2148 worldwide that are enrolled in Brand Registry. They have  
2149 enrolled for free. They don't have to have any kind of  
2150 economic relationship with Amazon. They don't have to sell  
2151 on Amazon. And those brands span from large, global  
2152 multinational brands to small entrepreneurs who have invented  
2153 a product out of their garage.

2154 What Brand Registry does is in partnership rights  
2155 owners, they provide us with a basic set of information about  
2156 their intellectual property, their logos, their distribution,  
2157 and we use that to aid our machine learning and our  
2158 technology, so that as we are vetting sellers, as we are  
2159 scanning listings before they are published, we are able to

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2160 more effectively detect potentially infringement products and  
2161 stop them proactively without a rights owner or a customer or  
2162 anyone else having to find them.

2163 Since the launch of Brand Registry, on average for  
2164 brands reporting infringement to Amazon, brands in Brand  
2165 Registry report ninety-nine percent fewer infringements per  
2166 brand than before the launch of Brand Registry.

2167 Mr. Carter. Really. That is quite impressive. You  
2168 mentioned earlier social media sites and what they were doing  
2169 to recruit bad people and to leave false and fake positive  
2170 reviews. What about that? How are you handling that? How  
2171 are you approaching that?

2172 Mr. Mehta. Yes. So we have absolutely seen situations  
2173 where bad actors are using social media sites, often private  
2174 groups within social media sites that are not visible easily  
2175 to companies like ours or to government, and using, bad  
2176 actors use those groups to recruit people and provide them  
2177 discounted or free products to get incentivized reviews. It  
2178 is completely unacceptable that that type of activity would  
2179 occur.

2180 We sometimes detect it because we see irregular patterns  
2181 of reviews being left on products. When we see that and we  
2182 investigate, we report those to social media sites and expect

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2183 them to take those sites down. It is something we are  
2184 working with a number of social media sites to get that  
2185 process to not only be faster and more effective but, more  
2186 importantly, for social media sites to proactively monitor  
2187 for such types of abuse and inform other partners in this  
2188 fight.

2189 Mr. Carter. Well, great. Well, thank you for your  
2190 efforts. Thank all of you for your efforts. And as you  
2191 know, if it is on the internet it is true, so we have to  
2192 always keep that in mind. Thank you and I yield back.

2193 Ms. Schakowsky. The gentleman yields back, and now Mr.  
2194 McNerney is recognized for 5 minutes.

2195 Mr. McNerney. I thank the chair and I thank the  
2196 witnesses for this testimony. It is useful and informative.

2197 Mr. Mehta, how does your company determine what products  
2198 receive the Amazon Choice badge?

2199 Mr. Mehta. Thank you, Congressman, for the question.  
2200 We have designed the Amazon Choice badge to really help  
2201 customers simplify their discovery and shopping experience.

2202 Mr. McNerney. Right, but how does that badge come  
2203 about?

2204 Mr. Mehta. So that badge is designed to show well-  
2205 priced, highly-rated products that are available for

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2206 delivery.

2207 Mr. McNerney. How does that badge get awarded?

2208 Mr. Mehta. It is awarded through an algorithm that uses  
2209 products that have been popular that have high ratings that  
2210 have low return rates. It uses a number of factors that  
2211 indicate that other customers purchasing that product have  
2212 had a great experience.

2213 Mr. McNerney. Thank you. In order for a product to  
2214 receive the Amazon Choice badge, is it required to undergo  
2215 any safety testing by Amazon? Please answer with a yes or  
2216 no.

2217 Mr. Mehta. Congressman, no. There is no unique safety  
2218 testing to get that badge.

2219 Mr. McNerney. Okay, thank you. In order for a product  
2220 to receive the Amazon Choice badge, is it required to undergo  
2221 any screening to ensure that the product is authentic?

2222 Mr. Mehta. Congressman.

2223 Mr. McNerney. Please answer with a yes or no.

2224 Mr. Mehta. There is no unique screening for  
2225 authenticity to receive that badge.

2226 Mr. McNerney. Well, do you think it is possible that  
2227 some customers may interpret the Amazon Choice badge to  
2228 signal that the product is one that Amazon trusts?

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2229 Mr. Mehta. Congressman, we use that badge to show a  
2230 product that other customers have found to be highly rated,  
2231 to have great prices, and to be available for delivery.  
2232 Amazon does not manually curate or assign that badge.

2233 Mr. McNerney. So the customer may think that is some  
2234 sort of a promotion by Amazon.

2235 Mr. Friedman, do you have a comment on that?

2236 Mr. Friedman. I don't know how a consumer could see it  
2237 any other way. I mean it is Amazon's Choice. And this is a  
2238 brand that has worked very hard to be a trusted brand and yet  
2239 you have Amazon Choice products as we found that are littered  
2240 with fake reviews. They are not policing the system. They  
2241 are not doing enough.

2242 We have heard a lot of ninety-nine percents here in  
2243 terms of impressive numbers of what they are talking about.  
2244 Well, one, there is lies, damn lies, and statistics. Part of  
2245 what you --

2246 Mr. McNerney. I am a mathematician, so be careful.

2247 Mr. Friedman. Statistics can be great, but it can also  
2248 be misused.

2249 Mr. McNerney. Right.

2250 Mr. Friedman. They are talking about, basically, with a  
2251 lot of these ninety-nine percent, ninety-nine percent are

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2252 verified reported things. They are saying consumers.

2253 Sellers are the ones who have the burden to report these

2254 problems to them and when they finally figure it out,

2255 potentially, after being hurt or misled, then they do

2256 something about it. We can't wait for the problems to

2257 happen. They need to be on this in the first place.

2258 Mr. McNerney. Thank you. You have discussed review

2259 hijacking. Can you walk us through what that means and how

2260 it works?

2261 Mr. Friedman. Sure. Review hijacking is, it basically

2262 manipulates one of the systems on Amazon where in various

2263 ways you can associate a review with one product with other

2264 products. Sometimes it is great. For example, if you have a

2265 blue version of product A and a red version of product A, it

2266 makes sense to be able to associate those reviews together.

2267 But when you have a review of a bicycle helmet and a review

2268 of an eyelash lengthener, there is no reason why those should

2269 be able to be associated.

2270 But loopholes in the system allow people to either take

2271 dormant reviews or reviews from their own products and

2272 package them together.

2273 Mr. McNerney. So how widespread to you think this

2274 problem is, review hijacking?

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2275           Mr. Friedman. We have certainly, in our investigations  
2276 we have seen it rather consistently. And what is even more  
2277 troubling is while Amazon responds when we point it out to  
2278 them, for a while we monitored what was happening on their  
2279 site and didn't report things and we saw the practice  
2280 continue. So, clearly, they are waiting until victims speak  
2281 up rather than proactively protecting their customers.

2282           Mr. McNerney. Well, I mean, I use Amazon all the time,  
2283 so I want to have confidence in what I am getting.

2284           Mr. Myers, can you talk a little about review hijacking,  
2285 what it means to consumers?

2286           Mr. Myers. I think that is, certainly, we monitor all  
2287 marketplaces including Microsoft -- or including Amazon,  
2288 excuse me. And in terms of counterfeit related products what  
2289 we do are test buys. So we don't necessarily look closely at  
2290 the reviews, per se, but what we do look at is the test buys.  
2291 And when we do that across all platforms, we still find a  
2292 significant degree of counterfeit items on those sites.

2293           Mr. McNerney. Okay, thank you.

2294           Ms. Wallach, why is it important for customers to be  
2295 able to easily discern who is selling the product?

2296           Ms. Wallach. Thank you for the question, Congressman.  
2297 For a customer to be able to make an informed decision about

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2298 what product might be reliable or safe, they need to have the  
2299 right information. And to your point about what kind of  
2300 investment by the company is put into deciding to have a  
2301 choice label, and this reflects other questions that I have  
2302 been asked by your colleagues, I note that while Amazon has  
2303 reported in spending a half a billion dollars in enforcement,  
2304 they in the same period have invested fifteen billion in  
2305 making it easier with a 150 more tools to get more third-  
2306 party sellers.

2307 So to reflect the comment Mr. Friedman made, the level  
2308 of investment as well as the decisions made, for instance, of  
2309 what gets to be choice, but even what gets to be listed. As  
2310 you have pointed out, these things aren't pretested. They  
2311 aren't certified. It is not invitation only, it is the wild,  
2312 wild West.

2313 Mr. McNerney. Thank you. All right. And I understand  
2314 how hard it is to verify products so, but Amazon and eBay and  
2315 all the online platforms need to make the right investment  
2316 because they are making money doing this.

2317 Thank you. I yield back.

2318 Ms. Schakowsky. And now I recognize Mr. Lujan for 5  
2319 minutes.

2320 Mr. Lujan. Thank you so much, Madam Chair. And I want

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2321 to thank everyone for making time to be here today. I have  
2322 two lines of questions, the first of which is something that  
2323 you may not have been asked before, with the exception of  
2324 eBay who we were able to contact before the hearing. And I  
2325 want to thank them for the work they did, but I will get into  
2326 that with the line of questioning.

2327 In New Mexico, Native American art and work is  
2328 critically important. It amounts to one in eighteen jobs  
2329 that Native Americans participate in, twice the rate of other  
2330 workers. It generates one billion dollars in economic  
2331 activity. However, by one estimate, Native artists lose  
2332 about 500 million dollars' worth of income a year to fake  
2333 goods sold from non-Native sources.

2334 My home state of New Mexico accounts for eighteen  
2335 percent of all Indian Arts and Craft Board complaints. An  
2336 estimated one in three fraudulent Native American products  
2337 originates from an online sale, second only to retail sales.

2338 Ms. Leavitt, what steps has eBay taken to work  
2339 proactively with tribal governments and dealers to help  
2340 authenticate sellers and combat misrepresentation?

2341 Ms. Leavitt. Yes. Thank you for the question,  
2342 Congressman. So, just to clarify, your question isn't so  
2343 much about the tribal entities, it is more about seller

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2344 verification; is that correct?

2345 Mr. Lujan. That is correct.

2346 Ms. Leavitt. Okay. Yes, so we have a number of steps  
2347 in place during the registration process to try to verify a  
2348 seller's identity. In addition to that we implement a number  
2349 of limits or controls on what a seller can sell and what  
2350 quantities they can sell, because they are not, you know,  
2351 "trusted" yet, they are new to the platform.

2352 And in addition to that, you know, currently, eBay does  
2353 not intermediate most payments, so we don't have access to  
2354 the same financial data that perhaps some other platforms or  
2355 some of our intermediation platforms such as PayPal may have.  
2356 But as eBay moves more into that space, our objective is to  
2357 leverage that data better, financials and other data sources  
2358 that we will have as a result of that and the federal  
2359 obligations that we will have to improve our processes for  
2360 vetting sellers.

2361 Mr. Lujan. I appreciate that.

2362 Mr. Mehta, does Amazon have any work in this space that  
2363 you partner or you work with the Indians Arts and Crafts  
2364 Board?

2365 Mr. Mehta. Thank you, Congressman, for the question.

2366 So we actually have an explicit policy that bans sellers from

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2367 selling illegal Native American burial items or products that  
2368 have been removed from Native American sites. We would be  
2369 happy to continue to engage with you and your office on this  
2370 area.

2371 Mr. Lujan. Very good.

2372 Mr. Mehta. It is a very important topic.

2373 Mr. Lujan. And so it is not so much the artifacts that  
2374 have been taken, it is the imposters. It is the fakes.

2375 Mr. Mehta. Yes.

2376 Mr. Lujan. There is actually a federal law that  
2377 requires the stamping of country of origin on these pieces of  
2378 art, but it doesn't exist, and so what we are hoping to do is  
2379 to work with you to make sure that that is a reality and the  
2380 policy. And again, to eBay specifically, we reached out to  
2381 some local art dealers in northern New Mexico and it was  
2382 flagged for several listings of counterfeit Native American  
2383 goods currently being sold on eBay.

2384 When we shared those with you all, it is my  
2385 understanding that they were taken down; is that correct?

2386 Ms. Leavitt. That is correct.

2387 Mr. Mr. Lujan. I really appreciate that so we want to  
2388 work closer in that area.

2389 Now because I also am a cyclist, Mr. Love, I really

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2390 appreciated you being here today, especially after a recent  
2391 tumble on a mountain bike where I found myself going over my  
2392 handlebars into a bed of rocks. Sadly, I don't have any  
2393 video footage of it, so I am sure everyone would appreciate  
2394 that. It was not pretty. But nonetheless, that bicycle  
2395 helmet saved me.

2396           Bicycle helmets, as you know, according to one meta-  
2397 analysis of the available research, reduce head injury by  
2398 forty-eight percent, serious head injuries by sixty percent,  
2399 traumatic brain injuries by fifty-three percent. Can you  
2400 tell me what happens if someone is wearing a counterfeit bike  
2401 helmet or what is happening with goods that are being  
2402 counterfeited and what it could mean to the detriment of  
2403 people's health?

2404           Mr. Love. And it is also appropriate that just down the  
2405 hall from us there is some traumatic brain injury symposium  
2406 going on right now. And I can absolutely tell you what would  
2407 happen, but I would much rather show you what would happen.  
2408 I would love your assistance in the destruction of a  
2409 counterfeit. Would you like to come down and destroy a  
2410 helmet?

2411           Mr. Lujan. Madam Chair, with your permission?

2412           Ms. Schakowsky. So ordered.

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2413 Mr. Love. So what we are going to do here is the CPSC  
2414 test replicates an impact which is about six feet in the air,  
2415 about a 200-pound guy, head first, onto either a rock or a  
2416 curb. Now, I am almost six feet tall, I am 200 pounds, and I  
2417 have done that. It is a terrifying impact. Now in a CPSC  
2418 test, any impact over 300 gs fails the test. So over 300 gs  
2419 that is the brain injury death line. A real Specialized  
2420 helmet will keep you down to 100 gs-ish and you are going to  
2421 walk away. It doesn't feel good after a hit like that. But  
2422 I would like you to jump on this or just hit this hard and  
2423 let's see what happens to this counterfeit helmet.

2424 Mr. Lujan. Jump on it?

2425 Mr. Love. Yes, if you can.

2426 Mr. Lujan. Ready?

2427 Mr. Love. Do it.

2428 Now, I said you -- the 300 g --

2429 Ms. Schakowsky. I just want to point out the gentleman  
2430 is already out of time, but finish your sentence.

2431 Mr. Love. Okay. The 300 g line is the death line.  
2432 This registers 994 gs, on our testing equipment. And our  
2433 testing equipment only goes to 994 gs. It is worse. So this  
2434 is why we are so passionate and we really appreciate working  
2435 with you all on this.

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2436 Mr. Lujan. Thank you.

2437 Ms. Schakowsky. So Mr. Lujan would have been in serious  
2438 trouble had that been a fake.

2439 Mr. Lujan. And, Madam Chair, I know my time is up. I  
2440 wouldn't be standing here today if I would have been wearing  
2441 a helmet like this with that tumble that I told you about. I  
2442 went into two boulders. I went headfirst in. I rolled it.  
2443 I popped my shoulder out. I probably would have been dead on  
2444 the side of that trail until someone found me or with some  
2445 traumatic brain injury.

2446 Ms. Schakowsky. We are very happy that you aren't. I  
2447 mean dead, that is. Thank you.

2448 Mr. Love. Mrs. Leavitt has had a similar crash. She is  
2449 also a serious mountain biker, so helmets make an impact.

2450 Ms. Schakowsky. Thank you.

2451 Ms. Dingell, you are next, 5 minutes.

2452 Mrs. Dingell. Thank you, Madam Chair, for holding this  
2453 hearing, and thank you to all of the witnesses. I am from  
2454 Michigan, as you all know, and I am a car girl, so I want to  
2455 start with a few questions on automotive safety.

2456 As you know, counterfeit airbags and their components  
2457 pose a severe danger to consumers just like we saw with the  
2458 helmet. I understand that while other major e-commerce

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2459 platforms have moved to ban the listing of airbags and their  
2460 components because these products are particularly even more  
2461 prone than the helmet to counterfeiting, eBay continues to  
2462 allow the listing of airbags and components. A recent search  
2463 for airbag and component listings on eBay generates hundreds  
2464 of results for airbags and various airbag components.

2465 So, Ms. Leavitt, I want to ask you a few questions on  
2466 this. Why has eBay refused to adopt the industry norm to ban  
2467 the listing of airbag and safety restraint components?

2468 Ms. Leavitt. Thank you for your question,  
2469 Congresswoman. So eBay has worked with the National Highway  
2470 Traffic Safety Administration as well as the automotive  
2471 manufacturers on several of our policies around airbags. So  
2472 you are aware --

2473 Mrs. Dingell. They are not happy.

2474 Ms. Leavitt. -- there is a big recall.

2475 Mrs. Dingell. Yes, very. It hurt people.

2476 Ms. Leavitt. Yes. And so --

2477 Mrs. Dingell. It killed people.

2478 Ms. Leavitt. Correct. And that is very unfortunate.  
2479 And we worked very closely with NHTSA on the communications  
2480 not only with past purchasers of the airbag that had been  
2481 recalled, but also worked with them to remediate through

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2482 sanctioning and essentially --

2483 Mrs. Dingell. Okay, but you still haven't -- I know  
2484 that I only have a short amount of time. How do you verify  
2485 the authenticity of airbag and airbag components, and what do  
2486 you do to -- what are you doing now to keep people from  
2487 buying bad parts that could kill them?

2488 Ms. Leavitt. Thank you. Yes, so we do ban airbag  
2489 covers because those can be used to circumvent, right. You  
2490 could put something in the airbag cover that could be an  
2491 airbag, essentially, so those are banned on the site. In  
2492 terms of the other airbags and parts that are allowed, they  
2493 are only allowed by a group of vetted sellers, and those  
2494 sellers have to provide proof or demonstrate that they have  
2495 sourced those items directly from the manufacturer.

2496 Mrs. Dingell. So can you tell me how the auto industry  
2497 is working, you are working with them to make the public  
2498 aware of the safety risks posed by these counterfeit bags,  
2499 and if you go quickly because I want to do --

2500 Ms. Leavitt. Oh, yes. So we work closely with A2C2  
2501 which I am sure you are familiar with.

2502 Mrs. Dingell. Yes, I am.

2503 Ms. Leavitt. Yes. We are actually meeting with them in  
2504 our offices in San Jose, I believe, next week. And so,

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2505 again, the purpose of those meetings is to sit down, reassess  
2506 our measures doing --

2507 Mrs. Dingell. This matters. We really are talking  
2508 about lives.

2509 Ms. Leavitt. Yes, absolutely. And I suspect --

2510 Mrs. Dingell. So I hope you will pay attention.

2511 Ms. Leavitt. -- this will be a big topic of  
2512 conversation.

2513 Mrs. Dingell. Thank you.

2514 Now with the remainder of my time I want to focus on the  
2515 coronavirus. Anytime there is a danger or fear will almost  
2516 be certainly be someone offering a product designed to  
2517 protect against that fear. But this in turn becomes very  
2518 dangerous when the product doesn't work and, in fact, helps  
2519 perpetuate the problem.

2520 So, Mr. Mehta and Ms. Leavitt, this represents a real  
2521 public health risk. How are Amazon and eBay addressing this  
2522 issue? I will start with Mr. Mehta.

2523 Mr. Mehta. Thank you, Congresswoman, for the question.  
2524 The coronavirus situation is rapidly evolving, but from the  
2525 moment it started, we started to actively scan our site,  
2526 proactively looking for any seller who is trying to list a  
2527 product making false claims, claiming that the product could

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2528 cure their virus, claiming that the product would save them  
2529 in some fashion.

2530 In addition, we look for bad actors who are trying to  
2531 take advantage of a crisis situation to try and price gouge  
2532 customers. We have no tolerance for false advertising claims  
2533 or price gouging in our store. We have removed a million  
2534 products that had false claims in them. We removed tens of  
2535 thousands of products that were listing products at gouging  
2536 type of levels from a pricing perspective, and we are  
2537 continuing to monitor our site. This is a very fast-evolving  
2538 situation.

2539 Mrs. Dingell. So let me ask you two questions before we  
2540 go to Ms. Leavitt. How quickly can you take it down, and  
2541 then, for instance, I tried to order bleach and I got a  
2542 notice this week my order had been canceled. I don't know  
2543 why. It didn't give me a reason. But when you think someone  
2544 is gouging or it is not there and a customer is trying to  
2545 order, do you try to replace their order? Do customers think  
2546 they are getting something? So, for instance, if they  
2547 ordered it a week ago and you said it was coming, how do you  
2548 deal with customer expectations?

2549 Mr. Mehta. Yes. Congresswoman, in terms of the  
2550 question on how quickly we can respond, we monitor every

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2551 listing as they go up and then we continue to monitor them.  
2552 And so sometimes this is happening before the listing ever  
2553 gets up and sometimes within minutes of it being in our  
2554 store. If a customer ever did purchase a product and was  
2555 unhappy with that product whether it was sold by Amazon or  
2556 sold by a third party, every product is covered by our A to Z  
2557 guarantee. I am not sure what happened with your bleach  
2558 order.

2559 Mrs. Dingell. Well, I don't care about that. What I am  
2560 more worried about is how do people know whether it really  
2561 works? And I think you have a lot of people ordering  
2562 products that they think are coming, and then I was not the  
2563 only one that had their order canceled in the last week, so I  
2564 think people are counting on you on some of these things as  
2565 well.

2566 Ms. Leavitt, I am already over my time so you are safe,  
2567 but I am going to send a letter. Thank you.

2568 Ms. Schakowsky. Thank you. The gentlewoman yields  
2569 back, and I recognize Congresswoman Kelly for 5 minutes.

2570 Ms. Kelly. Thank you, Madam Chair. Thank you for  
2571 holding this hearing today. As more consumers migrate from  
2572 buying products in stores to buying them online, new  
2573 challenges have emerged as we talked about. One area that

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2574 has been particularly frustrating for me is the sale of  
2575 firearms online. While many platforms have said they do not  
2576 allow the sale of firearms or bump stocks, simple code words  
2577 and private groups are used to get around algorithms designed  
2578 to detect illegal activity. While one of the most egregious  
2579 offenders is not testifying today, I believe that companies  
2580 need to do more than lower illegal activity to an acceptable  
2581 level as one company representative put it.

2582 Ms. Leavitt, eBay is a third-party platform that  
2583 connects sellers with buyers. I know that in 1999, eBay  
2584 decided to prohibit sales of firearms and ammunition. What  
2585 does eBay do besides just using machine learning algorithms  
2586 to crack down on firearm sales and how do you ensure that bad  
2587 actors are not able to continue posting using code words?

2588 Ms. Leavitt. Thank you for your question,  
2589 Congresswoman. So I think we approach the problem twofold,  
2590 right. There is one problem with the listing and the items  
2591 itself, and then the second problem is with these bad actors  
2592 who are listing the items. So with respect to the listings  
2593 themselves, we do have a prohibition on those items on our  
2594 site. We have a number of blocking and detection  
2595 technologies in place. Those are coupled with manual  
2596 reviews. We actually have pretty substantial physical teams

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2597 who are scrubbing and reviewing the site looking for those  
2598 types of listings. As part of that process, we are  
2599 constantly going back and revising and refining those blocks,  
2600 because as you mentioned, these individuals are using  
2601 different terminology to try to circumvent our measures.

2602 And with respect to bad actors, we have again in place  
2603 an algorithm in the background that is trying to search for  
2604 fraudulent and problematic behavior and then those accounts  
2605 are suspended from using our services. And then again, we  
2606 have a number of measures in place that are attempting to  
2607 prevent those sellers from re-registering with our site.

2608 Ms. Kelly. Do you have any idea how often it happens,  
2609 like --

2610 Ms. Leavitt. Probably more often than any of us would  
2611 like. I don't have the exact numbers, but we can get back to  
2612 you with that.

2613 Ms. Kelly. Okay, thank you.

2614 Mr. Mehta, I know Amazon has a similar policy. What  
2615 actions has Amazon taken to crack down on direct gun sales on  
2616 your platform?

2617 Mr. Mehta. Thank you, Congresswoman, for the question.  
2618 We do have a policy and like a number of our prohibited  
2619 products policies we are constantly scanning every listing as

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2620 it goes up in our store to look for a potentially prohibited  
2621 product and stop that before it ever is available for sale.  
2622 In addition, we know that bad actors try to game our systems.

2623 And so, we work both with regulators and different  
2624 organizations that help us identify new products that are  
2625 coming on the market that may be legal to sell in other  
2626 places but are prohibited on Amazon, to understand what those  
2627 products are and understand the different ways that folks may  
2628 advertise or communicate those products.

2629 In addition, when we find bad actors that are violating  
2630 our policies, we block their accounts. We stop them from  
2631 being able to sell more products. We hold the funds in their  
2632 account to make this a crime that does not pay. And there  
2633 are multiple cases where we are working with law enforcement  
2634 currently to go after bad actors that have violated our  
2635 prohibited products policies.

2636 Ms. Kelly. Okay. Increasingly, we are seeing social  
2637 media companies play a social role in directing consumers  
2638 directly to companies. Last summer, British regulators found  
2639 "troubling evidence" of a thriving marketplace for fake  
2640 online reviews on eBay and Facebook. On eBay they found more  
2641 than 100 listings offering fake reviews in exchange for  
2642 payment. On Facebook they found over two dozen groups

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2643 recruiting writers for fake or incentivized reviews.

2644 Consumers depend on online reviews before making new  
2645 purchases. One survey found that ninety-seven percent of  
2646 consumers depend on reviews for purchasing decisions. Ms.  
2647 Leavitt, can you tell me how eBay has responded to concerns  
2648 raised by British regulators?

2649 Ms. Leavitt. Yes, thank you for your question.

2650 Ms. Kelly. And as quickly as possible.

2651 Ms. Leavitt. Yes, so we worked with the Competition  
2652 Markets Authority in the U.K. We immediately took down the  
2653 listings that they had identified and then we performed our  
2654 own separate searches to take down additional listings that  
2655 were problematic. We took appropriate action by suspending  
2656 those sellers and in addition to other sellers that we found.  
2657 We went back and revisited our policies to make sure that  
2658 they were clear that those types of services were prohibited  
2659 from being offered on our site, and again we have that  
2660 formula of looking at listings and sellers to try to prevent  
2661 problems.

2662 Ms. Kelly. And, Mr. Friedman, do you think companies  
2663 like eBay and Facebook have responded adequately?

2664 Mr. Friedman. No. They definitely haven't. I mean you  
2665 even heard here in response to a tragedy associated with a

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2666 counterfeit airbag it was referred to as unfortunate. It is  
2667 not unfortunate, it is tragic. It is unacceptable and so  
2668 much more needs to be done. That bike helmet, that is the  
2669 one percent. That is the 0.1 percent that shows up.

2670 People's lives are at risk. We need to stop quoting numbers.  
2671 We need to stop using platitudes. We need to invest in the  
2672 innovation at these companies and in Congress to block the  
2673 counterfeits, the dangerous products, and the fake reviews.

2674 Ms. Kelly. My time is up. Thank you, Madam Chair.

2675 Ms. Schakowsky. The gentlewoman yields back, and now I  
2676 recognize Mr. Soto for 5 minutes.

2677 Mr. Soto. Thank you so much, Madam Chair. What a  
2678 fascinating area to be able to work on. When I look at even  
2679 in my own household the evolution of how we purchase goods  
2680 and services is just going almost as fast as I could keep  
2681 track of. In our own household, my wife orders groceries  
2682 online and they arrive at our doorstep, because she works  
2683 very hard as a schoolteacher, a math/science coach to be  
2684 exact, and doesn't feel like going to the grocery store  
2685 anymore, and I don't blame her. Boxes show up on our  
2686 doorstep.

2687 We even have a doorbell that can video people to know  
2688 who it is and have an idea whether people are going to be

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2689 trying to be porch pirates and steal our boxes or not. And  
2690 yet we also go to the mall when my wife has an important  
2691 purchase she wants to make and wants to try on things or even  
2692 get quick purchases. So we have to obviously look at  
2693 continuing regulations in this area because it has become  
2694 such a major part.

2695           Seventy-nine percent of Americans have made online  
2696 purchases, a staggering number. Twenty-six have purchased  
2697 counterfeit products. In 2016, sixteen items seized at the  
2698 border that posed a direct and obvious threat to human  
2699 safety. So we want to make sure that people have, and  
2700 consumers have various options and we can keep up with  
2701 technology and a busy lifestyle. But we also want to make  
2702 sure that people are getting the goods that they purchase.

2703           Mr. Love and Mr. Friedman, some counterfeit products  
2704 pose a greater threat than others because they are used for  
2705 things tied to human health and safety. Should these  
2706 products face greater scrutiny and, if so, what should that  
2707 scrutiny be?

2708           Mr. Love. I would absolutely encourage greater scrutiny  
2709 and not just for the branded counterfeits but also for the  
2710 generics. The helmet that Mr. Lujan jumped on, actually it  
2711 was a copy of one of our products, but it didn't have our

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2712 logo on it. I mean it is -- any cyclist would look at that  
2713 and know that is a Specialized helmet and that is why they  
2714 sell. But our logos were removed. And I had him jumping on  
2715 that to make the point, because I legally can't take those  
2716 down.

2717 And so, something that should be addressed, and this is  
2718 a matter for CPSC and engagement with all the parties at  
2719 these tables, is how to deal with the generic products that  
2720 are dangerous. Not just the current one here. This has our  
2721 Specialized logos on it. When this appears on e-commerce, I  
2722 can knock this down. But if I just peel off the sticker, I  
2723 can sell hundreds of them all day long and no one has any  
2724 legal recourse.

2725 Mr. Soto. Thank you, Mr. Love.

2726 And, Mr. Friedman?

2727 Mr. Friedman. Absolutely, these products, anytime a  
2728 product is involved with health and safety it requires  
2729 double, triple, quadruple the effort because people trust  
2730 those products. They depend on those products to save their  
2731 lives and to protect them. Part of the challenge here is  
2732 every single one of these products should include in many  
2733 cases specific certifications. I expect every platform to be  
2734 screening those products for those certifications.

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2735 I expect more resources and more efforts at the border  
2736 to block those products from being able to come in, and I  
2737 expect the platforms not just to certify companies up front,  
2738 but to regularly audit and follow back with them and when  
2739 they find illegal practices always report them to the  
2740 authorities. Don't just ban them.

2741 Mr. Soto. Thank you. Thank you, Mr. Friedman.

2742 Mr. Mehta and Ms. Leavitt, it would be great to  
2743 understand what you all think should be the rules of the road  
2744 with regards to fraudulent sellers and how we could use  
2745 things like artificial intelligence and block chain to be  
2746 able to keep integrity in the system of online sales.

2747 Mr. Mehta. Thank you, Congressman, for the question.  
2748 We absolutely agree that artificial intelligence and machine  
2749 learning is critical to how we stop these bad actors. While  
2750 there is a number of criminals and bad actors that operate in  
2751 kind of old school fashion, increasingly we see bad actors  
2752 that are using sophisticated technology themselves to try and  
2753 game our systems to try and attack American customers.

2754 And so we have to use machine learning to detect  
2755 patterns, detect behaviors not just from when someone  
2756 registers, but on an ongoing basis when they are selling in  
2757 our stores. We think things like block chain or solutions

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2758 like our Transparency program that uniquely identify every  
2759 product that is manufactured, are technology solutions that  
2760 can scale throughout the entire supply chain much more  
2761 effectively and proactively.

2762 Mr. Soto. Ms. Leavitt?

2763 Ms. Leavitt. I would just add to that again as I  
2764 testified earlier. I think another important component to  
2765 that is the cooperation, because our systems and technology  
2766 can only detect so much and I feel like a lot of what we have  
2767 seen in our experience is sometimes brands or consumer groups  
2768 see activities or behaviors that sellers are engaging in that  
2769 we don't have visibility to. And that may be off-platform or  
2770 on other platforms, and once that information is shared that  
2771 helps us to perform a more comprehensive investigation and  
2772 improve our own detection methodologies.

2773 Mr. Soto. Thanks, and I yield back.

2774 Ms. Schakowsky. The gentleman yields back. I am so  
2775 happy to yield to Congresswoman Eshoo who is always so kind  
2776 to me when I waive on to her Health Subcommittee, and I am  
2777 very happy to yield to you right now for 5 minutes.

2778 Ms. Eshoo. Thank you, Madam Chairwoman, for your kind  
2779 remarks and for your leadership here and at the Health  
2780 Subcommittee. That never stops with Congresswoman

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2781 Schakowsky.

2782 So I guess it is afternoon now. Good afternoon,  
2783 everyone. Welcome to the big hearing room of the Energy and  
2784 Commerce Committee, and a special welcome to Ms. Leavitt from  
2785 eBay. I am proud to have eBay in my congressional district  
2786 and have watched just that very, very tiny idea just grow and  
2787 grow and grow and there are a lot of people that have  
2788 benefited from it. So thank you for coming across the  
2789 country to testify today.

2790 I don't think everyone understands the difference  
2791 between eBay, Amazon, and other e-commerce platforms. I  
2792 think to understand a business you have to understand how it  
2793 makes money. So, Ms. Leavitt, would you just take a minute  
2794 and tell us how eBay makes money? What is your business  
2795 model? And tell us what business practices eBay avoids  
2796 relative to your peers so that people that are tuned in and  
2797 listening to this understand the differences.

2798 Ms. Leavitt. Yes, thank you for your question. I think  
2799 the biggest difference is that eBay is a peer marketplace, so  
2800 we provide a platform for independent sellers and buyers to  
2801 connect to transact a sale, essentially. I think another big  
2802 difference that exists between us and our competitors is that  
2803 we don't compete against our sellers on the site. So eBay

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2804 does not sell. We don't otherwise touch or disturb you or  
2805 retail the products that are sold on our site, and so our  
2806 success as a business really does depend on the success of  
2807 our individual sellers.

2808 Ms. Eshoo. How do you know they are safe?

2809 Ms. Leavitt. I am sorry. What was that?

2810 Ms. Eshoo. How do you know they are safe products?

2811 Ms. Leavitt. So we have -- the products? So we have --

2812 Ms. Eshoo. Or the item, whatever you want to call it,  
2813 but.

2814 Ms. Leavitt. Yes. Yes, so we have a number of  
2815 different measures in place in addition to partnerships. So,  
2816 we have talked a lot today about the different technologies  
2817 that we have both to look at the listing and the seller level  
2818 to ensure that there are no violations going on there, but  
2819 then we also rely heavily on partnerships with third parties  
2820 including government agencies such as the CPSC to keep us  
2821 informed about not only recalls, but also issues that can  
2822 pose a pose a serious safety risk to consumers. So we kind  
2823 of couple those two things together, in addition to efforts  
2824 with law enforcement.

2825 Ms. Eshoo. Thank you.

2826 To Mr. Mehta, good afternoon to you. Knowing who is

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2827 selling a product, and this has been taken up by different  
2828 members since I came in and was absorbing what the questions  
2829 and the answers were, but knowing who is selling a product is  
2830 really important for buyers, obviously. Now on a product  
2831 page in the Amazon app, a user has to scroll past the buy now  
2832 button to see who is selling the product. Now I think that  
2833 this seems like information I certainly would want to know  
2834 and I think others would like to know before, not after, or  
2835 ever, but before they are buying, especially if the seller  
2836 isn't Amazon.

2837 Now I had in my wonderful opening statement that I am  
2838 going to submit for the record, I use the example of helmets,  
2839 and we saw today how calamitous a faulty product can be. So  
2840 it is one thing to buy a knockoff designer handbag, but it is  
2841 an entirely different issue when, as we saw when helmets  
2842 don't meet required standards, fake iPhone chargers cause  
2843 fires, counterfeit toys, you know, can injure children.

2844 So why is the seller information listed after the buy  
2845 now button? And, well, is Amazon willing to change that?  
2846 Seems to me you have a real headache on your hands.

2847 Ms. Leavitt. Congresswoman, thank you for the question.  
2848 We also consider --

2849 Ms. Eshoo. Do you really mean that? Thank you for the

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2850 question.

2851 Mr. Mehta. No, I really do mean that because --

2852 Ms. Eshoo. Good, okay.

2853 Mr. Mehta. -- I completely agree that it is completely  
2854 unacceptable for unsafe products to be sold in our stores,  
2855 and it is the reason we invest so much in proactive efforts  
2856 to stop that. On every product --

2857 Ms. Eshoo. But, you know, and Ms. -- excuse me. Ms.  
2858 Wallach kind of took that apart. You are making an  
2859 investment, but the investment made on that side relative to  
2860 safe products and people knowing who is selling it versus the  
2861 other dollars that you are spending, that just didn't -- I  
2862 mean it is like this. So I think you need to address that.

2863 Mr. Mehta. Yes. So if I go to your question around the  
2864 product detail page, and every time a customer views a  
2865 product detail page, we try to make it very transparent. It  
2866 is the reason it is right next to that buy now button that we  
2867 say ships from --

2868 Ms. Eshoo. Why don't you reverse it? Why do you make  
2869 it afterward? Why not just state it up front? Wouldn't that  
2870 be better for you as a business model and confidence in terms  
2871 of consumers? It seems to me that it is an easy thing to do  
2872 unless you don't want to for whatever reasons.

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2873 Mr. Mehta. We try to put it right next to that and we  
2874 want it to be easy for customers, you know, to be --

2875 Ms. Eshoo. Why don't you say, "Before you buy you  
2876 should know the following?"

2877 Mr. Mehta. To be honest, I have not heard this feedback  
2878 from customers. I would be happy to follow up and look at  
2879 whether customers believe this would be helpful. We have had  
2880 it in that location, and in general customers are very clear.  
2881 We say it ships from and sold by, and so it is very clear  
2882 which of those are, and you click on that name and get more  
2883 information about that seller.

2884 Ms. Eshoo. Well, my time has expired. But I have to  
2885 tell you if it was my business model, I would go with  
2886 consumers because they are your customers. Thank you very  
2887 much, Madam Chairwoman. I yield back.

2888 Ms. Schakowsky. I thank the gentlewoman.

2889 Normally, this would complete our questions, but I had  
2890 asked the ranking member, Ms. Rodgers, if I could ask a few  
2891 more. And if you want to ask any questions, Mr. Shimkus is  
2892 taking her place. But if you don't mind, I am going to go  
2893 through just a couple more questions.

2894 In October, the Federal Trade Commission reached a  
2895 settlement with the skin care brand Sunday Riley for

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2896 directing employees to post false reviews and to down vote  
2897 negative reviews. But the Federal Trade Commission settled  
2898 with the company as I had mentioned in my opening statement,  
2899 but it did not include any money, compensation for consumers  
2900 or penalties on the company.

2901 So I wanted to ask you, Mr. Friedman, first, what kind  
2902 of message is that that the FTC is sending to a business who  
2903 might be thinking about falsifying reviews and ratings?

2904 Mr. Friedman. It sends a terrible message, Madam  
2905 Chairwoman, very much in contrast to all the work that you  
2906 have done throughout your career to protect consumers. What  
2907 this says instead is business as usual is fine. This is  
2908 exactly what I am talking about in terms of how the  
2909 incentives are not there for the companies to do the right  
2910 thing even when they are clearly violating the law.

2911 Obviously that FTC settlement completely missed an  
2912 opportunity for them to lead, for consumers to put --

2913 Ms. Schakowsky. I think most normal people wouldn't  
2914 consider that a settlement at all. No money and no  
2915 punishment.

2916 Mr. Friedman. Yes.

2917 Ms. Schakowsky. Remarkable.

2918 Mr. Friedman. It is not even a slap on the wrist.

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2919 Ms. Schakowsky. Mr. Myers and Mr. Love, do you think  
2920 that this settlement establishes a sufficient deterrent in  
2921 any way to a seller thinking about engaging in fake reviews?

2922 Mr. Myers. Yes, anytime that a customer is deceived is  
2923 not a good situation. It is concerning. I think relative to  
2924 how we look at the issue of just counterfeit products  
2925 overall, you know, one counterfeit is too many and wherever  
2926 that is happening it is something that should be addressed.  
2927 Ideally, jointly has been discussed today with marketplaces  
2928 as well as with government agencies.

2929 Mr. Love. Exactly what he said.

2930 And I do want to quickly follow up on something that  
2931 Congresswoman Eshoo brought up in the last discussion about  
2932 putting customer information on stores. Speaking as an  
2933 investigator, when you go to an Amazon.uk store or an eBay.uk  
2934 store that information is all there because it is required by  
2935 law. I love when I find a bad actor on Amazon that they also  
2936 have a UK store because then I can research them. I am  
2937 completely incapable of doing that on .com today.

2938 So that is an aspect for legislation in terms of  
2939 disclosing who you are actually doing business with, which it  
2940 must be mandated by law in the UK, it could be something that  
2941 could be looked into.

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2942 Ms. Schakowsky. I assure you, Ms. Eshoo and our  
2943 subcommittee will be interested in following up on that as  
2944 well.

2945 Mr. Friedman, so what do you think is an appropriate  
2946 punishment for businesses that seek out fake reviews?

2947 Mr. Friedman. From my --

2948 Ms. Schakowsky. I am not really asking for a dollar  
2949 figure, but I am assuming you think there ought to be some  
2950 compensation to the consumers and also some sort of  
2951 punishment?

2952 Mr. Friedman. Yes. I mean A, they should be prosecuted  
2953 to the full extent of the law. They should certainly be  
2954 charged not only a penalty associated with the harm that they  
2955 caused, but an additional penalty maybe even relative to the  
2956 size of the company so that they actually feel it, that it  
2957 means something to truly deter the actions. Many of these  
2958 companies out here we are talking hundreds of billions of  
2959 market capitalization in some cases. A few million, a few  
2960 hundred million here and there isn't going to make a  
2961 difference to the decisions they make every single day.

2962 Ms. Schakowsky. Thank you. I wanted to clarify  
2963 something as well. I want to make sure that the ordinary  
2964 consumers understand what we mean. I was thinking back on

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2965 the question about de minimis. So I order something, I order  
2966 a bike online and it is six hundred and something dollars,  
2967 you said. So it could be sent with a lot of other bikes that  
2968 have been ordered, but it is sent to me as a way to get under  
2969 the threshold; is that right? I mean things, for example,  
2970 that are boxed that could be in a container are then sent  
2971 individually to get away from inspections. Is that how that  
2972 works that you can avoid inspections?

2973 Ms. Wallach. Thank you for the question, Madam  
2974 Chairwoman. Yes, the combination of the de minimis being  
2975 higher and the lack of information and combined with the  
2976 platform's contention that they are not the seller, creates  
2977 basically a perfect chain of uninspected goods getting  
2978 delivered in huge amounts to individual consumers.

2979 As a practical matter, and this is detailed in my  
2980 written testimony, there are several different ways you can  
2981 game the system if you pick and pack things in the  
2982 fulfillment center overseas into particular boxes addressed  
2983 to a U.S. ultimate consumer and the value of what goes into  
2984 the boxes is less than eight hundred dollars you are into de  
2985 minimis.

2986 A new scam that there was a recent ProPublica story  
2987 about is to have big containers, because those individual

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2988 shipments are typically done by air freight, which is  
2989 expensive. But to make it cheaper to go by ocean shipping  
2990 now, companies have designed a system where they basically  
2991 have big containers full of many counterfeit bikes shipped to  
2992 Mexico or Canada. They are landed there as goods in transit,  
2993 so they are not entered into Mexican or Canadian customs.  
2994 They are picked and packed out of the ocean container into  
2995 the individual, then they are trucked over the border to a  
2996 U.S. Post Office or to an express consignment, a FedEx or  
2997 whatever, and sent to the U.S. consumer, at which point they  
2998 don't get inspected because they are de minimis. It is a  
2999 serious problem.

3000 Ms. Schakowsky. Thank you. I wanted to just make sure  
3001 everybody understood what is going on.

3002 Ms. Wallach. One individual, one thing to add, which is  
3003 perhaps the most alarming and with respect to the  
3004 administration's investing --

3005 Ms. Schakowsky. You know what, I am going to have to  
3006 skip that because I am out of time.

3007 Ms. Wallach. Okay. Customs considers these mass  
3008 shipments to actually be individual shipments is the added  
3009 thing, so Customs can change the rule as well.

3010 Ms. Schakowsky. Oh, okay. Thank you for that.

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3011 Mr. Shimkus. Madam Chairman?

3012 Ms. Schakowsky. Yes. I have completed my questions and  
3013 I yield to Mr. Shimkus.

3014 Mr. Shimkus. Thank you. I won't be long. This is not  
3015 my subcommittee. Members of Congress have to be extra  
3016 generalist, and you are getting lesson 101 on being an expert  
3017 generalist. So I am just going to finish and make sure that,  
3018 you know, a statement from our side would be that from my  
3019 understanding we have rights holders, online marketplace, and  
3020 consumer advocates at the panel. And I think we would argue  
3021 that if you want a better, quicker, faster solution to this  
3022 problem, probably best to be working together before we let  
3023 the, you know, the political legislative process try to solve  
3024 this. And I think from what I have been told of the opening  
3025 statements and the testimony that people understand the  
3026 challenges and the problems, and I would just encourage you  
3027 to do that. With that I yield back my time. Thank you,  
3028 Madam Chairman.

3029 Ms. Schakowsky. I thank the gentleman for helping us to  
3030 finish this hearing. Thank you so very much and for your  
3031 remarks.

3032 Okay, I now ask unanimous consent to insert into the  
3033 record letters -- oh, I see. Here we go. And they are a

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3034 letter from PreClear; a statement from the International  
3035 Precious Metal Institute; a letter from The Toy Association;  
3036 a letter from The Internet Association; a letter from the  
3037 National Association of Attorneys General; a letter from the  
3038 former Acting NHTSA Administrator Heidi King, offered by  
3039 Representative Burgess; a letter from the National  
3040 Association of Manufacturers. Unanimous consent?

3041 Mr. Shimkus. Without objection.

3042 Ms. Schakowsky. Without objection, so ordered. And  
3043 with that the -- oh yes. I need to remind our witnesses.  
3044 And, first of all, thank you for being here. But I wanted to  
3045 remind members that pursuant to committee rules, they have 10  
3046 business days to submit additional questions for the record  
3047 to be answered by the witnesses who have appeared. I ask  
3048 each of the witnesses to respond promptly to any question  
3049 that you may receive. And now, at this time, the  
3050 subcommittee is adjourned.

3051 [Whereupon, at 12:43 p.m., the subcommittee was  
3052 adjourned.]