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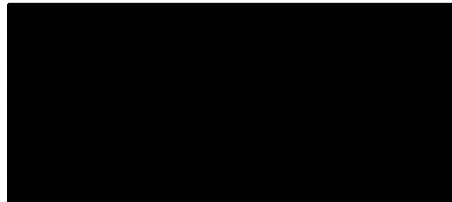
United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

A. JAY KHOSLA, STAFF DIRECTOR
JOSHUA SHEINKMAN, DEMOCRATIC STAFF DIRECTOR

May 30, 2018



Dear [REDACTED]

The Senate Committee on Finance is collecting information on the proliferation of counterfeit goods sold through e-commerce websites. This process began shortly after the passage of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), which was signed into law on February 24, 2016 and contained new provisions strengthening the tools for U.S. Customs and Border Protection to combat counterfeit imports. After the passage of TFTEA, Chairman Hatch commissioned GAO to evaluate the law's effectiveness in aiding U.S. Customs and Border Protection (CBP) as well as how the U.S. Immigration and Customs Enforcement agencies curtail the importation and distribution of counterfeit goods sold through e-commerce. On February 27, 2018, GAO published its report, "Agencies Can Improve Efforts to Address Risks Posed by Changing Counterfeits Market" and one week later the Committee held a hearing titled "Protecting E-commerce Consumers from Counterfeits."

The hearing focused on assessing CBP and other federal agencies efforts to protect American consumers from imported counterfeit goods. We have learned that private companies who buy, sell, distribute, holds rights to, facilitate delivery for, transact and process payments for, and otherwise engage with American consumers via e-commerce websites also play an instrumental role in protecting U.S. consumers.

As part of our ongoing work, we write today to request information from your company on the types of activities you participate in, facilitate, or otherwise have knowledge of to help us better inform American consumers of the dangers of counterfeit goods as well as to curtail the illegal sale of counterfeits through e-commerce sites.

Through this endeavor, we hope to learn more about your organization's experience with counterfeit goods and to collect information on ways in which organizations can better protect consumers from such goods in the future. The information we receive will be used to help inform a public report. Therefore, we ask that you provide answers to the following questions as they apply to you and/or your affiliated organizations:

1. What types of remedial measures do you provide U.S. consumers who may have unintentionally purchased a counterfeit good through your platform?
2. What types of remedial measures do you provide to rights holders who find that counterfeit goods are being sold through your platform?
3. In what circumstances does your organization come into physical contact with counterfeit products sold and delivered to consumers, including those sold by your organization directly or through second and third party merchants on your platform?
4. What services, tools, protections, and assistance do you provide consumers and rights holders with respect to preventing the sale of counterfeits?
5. Please explain what you feel are some of the biggest risks counterfeit goods currently pose e-commerce consumers.
6. What have you done to curtail those risks and what have you done to inform consumers of those same risks, which may not be known to the consumer?
7. Do you engage with foreign governments to curtail the proliferation of counterfeits? If so, what types of activities and coordination have proven successful? What efforts have not been successful?
8. To what extent do you facilitate delivery, storage, processing, and purchases of goods on your platform?
9. Which inflection points in the ecommerce purchasing/selling process have you found most critical to intervene in to prevent and/or curtail the distribution of counterfeit goods?
10. Have there been there instances where genuine goods sold on your platform are intermingled and/or comingled with counterfeit goods? Can you provide an example?
 - a. What is your company doing to prevent this from occurring/reoccurring?
11. How do you coordinate with right holders to verify whether goods sold over your platform are genuine?
 - a. If you do not coordinate, please explain how or why you do not feel this is helpful or necessary.
12. In what ways do counterfeiters evade actions you have taken to prevent counterfeits on your platform or using your services?
 - a. Potential examples here might include reposting or creating new, virtually identical counterfeits goods seller accounts; submitting notice and take down requests against legitimate goods seller accounts; providing a mixture of authentic and counterfeit goods making it difficult to predict the authenticity of future sales.
13. After a suspected counterfeit distributor has been identified—whether by your company or a third party—what steps do you take, if any, to verify the claims of counterfeit distribution?
14. What is the process, if any, for removing a suspected counterfeit distributor from your platform?
15. After removal, what processes does your company have in place, if any, to prevent a suspected counterfeit distributor from regaining access to your platform and subsequently U.S. consumers?
16. If you become aware of a counterfeit good and/or distributor on your platform what actions including initiating legal action does your company have the power to take?
 - a. Can you provide us with statistical information regarding the frequency in which you have taken actions concerning suspected counterfeit products—either through investigation, destructions, abandonment, or otherwise?

17. How have you coordinated with U.S. federal and local authorities to curtail the distribution and manufacture of counterfeit goods within the United States?
 - a. How have you coordinated with international authorities?
18. If there are any other pieces of information, details, or data you feel would be helpful to the committee, we respectfully request that you submit them as part of your answers as well.

We also ask that your organization respond electronically to this request no later than Friday, June 29, 2018. Provide your answers on a question-by-question basis, indicating which question you are answering. Thank you in advance for your cooperation with this request. If you have any questions, please contact [REDACTED]

Sincerely,



Orrin G. Hatch
Chairman



Ron Wyden
Ranking Member