

116TH CONGRESS
2D SESSION

H. R. 7756

To require online marketplaces to verify and disclose certain information regarding high-volume third-party sellers of consumer products to inform consumers.

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2020

Ms. SCHAKOWSKY (for herself and Ms. CASTOR of Florida) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require online marketplaces to verify and disclose certain information regarding high-volume third-party sellers of consumer products to inform consumers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Integrity, Notification,
5 and Fairness in Online Retail Marketplaces for Con-
6 sumers Act” or the “INFORM Consumers Act”.

7 **SEC. 2. DISCLOSURE OF INFORMATION BY ONLINE MAR-**
8 **KETPLACES TO INFORM CONSUMERS.**

9 (a) VERIFICATION REQUIRED.—

1 (1) IN GENERAL.—Any online marketplace shall
2 require that any high-volume third-party seller on
3 the online marketplace provide the online market-
4 place with the following information within 24 hours
5 of becoming a high-volume third-party seller:

6 (A) Bank account information, the accu-
7 racy of which has been confirmed directly by
8 the online marketplace or by a payment proc-
9 essor or other third-party contracted by the on-
10 line marketplace, or, if the high-volume third-
11 party seller does not have a bank account, the
12 name of the payee for payments issued by the
13 online marketplace to the high-volume third-
14 party seller. Such bank account or payee infor-
15 mation may be provided by the seller either—

16 (i) to the online marketplace; or

17 (ii) to a payment processor or other
18 third-party contracted by the online mar-
19 ketplace to maintain such information,
20 provided that the online marketplace may
21 obtain such information on demand from
22 such payment processor or other third-
23 party.

24 (B) Contact information, including—

1 (i) if the high-volume third-party sell-
2 er is an individual, a copy of a govern-
3 ment-issued photo identification for the in-
4 dividual that includes the individual's
5 name and physical address; or

6 (ii) if the high-volume third-party sell-
7 er is not an individual, either—

8 (I) a copy of a government-issued
9 photo identification for an individual
10 acting on behalf of the high-volume
11 third-party seller that includes the in-
12 dividual's name and physical address;
13 or

14 (II) a copy of a government-
15 issued record or tax document that in-
16 cludes the business name and physical
17 address of the high-volume third-party
18 seller; and

19 (iii) a working email address and
20 working phone number for the high-volume
21 third-party seller.

22 (C) A business tax identification number
23 or, if the high-volume third-party seller does not
24 have a business tax identification number, a
25 taxpayer identification number.

1 (D) Whether the high-volume third-party
2 seller is exclusively advertising or offering the
3 consumer product or products on the online
4 marketplace, or if the high-volume third-party
5 seller is currently advertising or offering for
6 sale the same consumer product or products on
7 any other internet websites other than the on-
8 line marketplace.

9 (2) ONGOING VERIFICATION.—

10 (A) The online marketplace shall verify the
11 information provided in paragraph (1) within 3
12 days, and shall verify within 3 days any
13 changes to such information that is provided to
14 the marketplace by a high-volume third-party
15 seller. If a high-volume third-party seller pro-
16 vides a copy of a valid government-issued tax
17 document, information contained within such
18 tax document shall be presumed to be verified
19 as of the date of issuance of such record or doc-
20 ument.

21 (B) The online marketplace shall, on at
22 least an annual basis, notify each high-volume
23 third-party seller on the online marketplace that
24 the seller must inform the online marketplace of
25 any changes to the information provided by the

1 seller pursuant to paragraph (1) within 3 days
2 of receiving the notification and shall instruct
3 each high-volume third-party seller, as part of
4 the notification, to electronically certify either
5 that the seller's information is unchanged or
6 that the seller is providing changes to the infor-
7 mation. If the online marketplace becomes
8 aware that a high-volume third-party seller has
9 neither certified that the seller's information is
10 unchanged nor has not provided such changed
11 information within 3 days of receiving such no-
12 tification, the online marketplace shall suspend
13 the high-volume third-party seller's participa-
14 tion on the marketplace until the seller has ei-
15 ther certified that the seller's information is un-
16 changed or has provided such changed informa-
17 tion and the information has been verified.

18 (b) DISCLOSURE REQUIRED.—

19 (1) IN GENERAL.—Any online marketplace shall
20 require a high-volume third-party seller in such on-
21 line marketplace to provide, and shall disclose to
22 consumers in a conspicuous manner either on the
23 product listing or, for information other than the
24 seller's full name, through a conspicuously placed

1 link on the product listing, the following informa-
2 tion:

3 (A) Subject to paragraph (2), the identity
4 of the high-volume third-party seller which shall
5 include—

6 (i) the full name of the seller;

7 (ii) the full physical address of the
8 seller;

9 (iii) whether the seller also engages in
10 the manufacturing, importing, or reselling
11 of consumer products; and

12 (iv) contact information for the seller,
13 including a working phone number and
14 working email address. Such working email
15 address may be provided to the high-vol-
16 ume third-party seller by the online mar-
17 ketplace.

18 (B) Any other information that the Com-
19 mission determines to be necessary to address
20 circumvention or evasion of the requirements of
21 this paragraph, provided that the additional in-
22 formation is limited to what is necessary to ad-
23 dress such circumvention or evasion.

24 (2) EXCEPTION.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), upon the request of a high-volume
3 third-party seller, an online marketplace may
4 provide for partial disclosure of the identity in-
5 formation required under paragraph (1)(A) in
6 the following situations:

7 (i) If the high-volume third-party sell-
8 er demonstrates to the online marketplace
9 that the seller does not have a business ad-
10 dress and only has a residential street ad-
11 dress, the online marketplace may direct
12 the high-volume third-party seller to dis-
13 close only the country and, if applicable,
14 the State in which the high-volume third-
15 party seller resides on the product listing,
16 and may inform consumers that there is no
17 business address available for the seller
18 and that consumer inquiries should be sub-
19 mitted to the seller by phone or email.

20 (ii) If the high-volume third-party sell-
21 er demonstrates to the online marketplace
22 that the seller is a business that has a
23 physical address for product returns, the
24 online marketplace may direct the high-vol-

1 ume third-party seller to disclose the sell-
2 er's physical address for product returns.

3 (iii) If a high-volume third-party seller
4 demonstrates to the online marketplace
5 that the seller does not have a phone num-
6 ber other than a personal phone number,
7 the online marketplace shall inform con-
8 sumers that there is no phone number
9 available for the seller and that consumer
10 inquiries should be submitted to the sell-
11 er's email address.

12 (B) LIMITATION ON EXCEPTION.—If an
13 online marketplace becomes aware that a high-
14 volume third-party seller has made a false rep-
15 resentation to the online marketplace in order
16 to justify the provision of a partial disclosure
17 under subparagraph (A) or that a high-volume
18 third-party seller who has requested and re-
19 ceived a provision for a partial disclosure under
20 subparagraph (A) has not provided responsive
21 answers within a reasonable timeframe to con-
22 sumer inquiries submitted to the seller by phone
23 or email address, the online marketplace shall
24 withdraw its provision for partial disclosure and
25 require the full disclosure of the high-volume

1 third-party seller’s identity information required
2 under paragraph (1)(A) upon 3 business days’
3 notice to the high-volume third-party seller.

4 (3) REPORTING MECHANISM.—An online mar-
5 ketplace shall disclose to consumers, in a con-
6 spicuous manner on the product listing of any high-
7 volume third-party seller, a reporting mechanism
8 that allows for electronic and telephonic reporting of
9 suspicious marketplace activity to the online market-
10 place and a message encouraging individuals seeking
11 goods for purchase to report suspicious activity to
12 the online marketplace.

13 (c) FULFILLMENT OR SHIPMENT BY DIFFERENT
14 PARTY THAN SELLER.—In addition to the requirements
15 of subsection (b), an online marketplace that warehouses,
16 distributes, or otherwise fulfills a consumer product order
17 shall disclose to the consumer the identification of any
18 high-volume third-party seller supplying the consumer
19 product if different than the seller listed on the product
20 listing page.

21 (d) ENFORCEMENT.—

22 (1) UNFAIR AND DECEPTIVE ACTS OR PRAC-
23 TICES.—A violation of subsection (a), (b), or (c)
24 shall be treated as a violation of a rule defining an
25 unfair or deceptive act or practice prescribed under

1 section 18(a)(1)(B) of the Federal Trade Commis-
2 sion Act (15 U.S.C. 57a(a)(1)(B)).

3 (2) POWERS OF THE COMMISSION.—

4 (A) IN GENERAL.—The Commission shall
5 enforce this Act in the same manner, by the
6 same means, and with the same jurisdiction,
7 powers, and duties as though all applicable
8 terms and provisions of the Federal Trade
9 Commission Act (15 U.S.C. 41 et seq.) were in-
10 corporated into and made a part of this Act.

11 (B) PRIVILEGES AND IMMUNITIES.—Any
12 person that violates subsection (a), (b), or (c)
13 shall be subject to the penalties, and entitled to
14 the privileges and immunities, provided in the
15 Federal Trade Commission Act (15 U.S.C. 41
16 et seq.).

17 (3) REGULATIONS.—The Federal Trade Com-
18 mission may promulgate regulations under section
19 553 of title 5, United States Code, with respect to
20 collecting and verifying information under this sec-
21 tion, provided that such regulations are limited to
22 what is necessary to collect and verify such informa-
23 tion.

1 (4) AUTHORITY PRESERVED.—Nothing in this
2 Act shall be construed to limit the authority of the
3 Commission under any other provision of law.

4 (e) DEFINITIONS.—In this Act:

5 (1) COMMISSION.—The term “Commission”
6 means the Federal Trade Commission.

7 (2) CONSUMER PRODUCT.—The term “con-
8 sumer product” means any tangible personal prop-
9 erty which is distributed in commerce and which is
10 normally used for personal, family, or household
11 purposes (including any such property intended to
12 be attached to or installed in any real property with-
13 out regard to whether it is so attached or installed).

14 (3) HIGH-VOLUME THIRD-PARTY SELLER.—The
15 term “high-volume third-party seller” means a par-
16 ticipant in an online marketplace who is a third-
17 party seller and who, in any continuous 12-month
18 period during the previous 24 months, has entered
19 into 200 or more discrete sales or transactions of
20 new or unused consumer products resulting in the
21 accumulation of an aggregate total of \$5,000 or
22 more in gross revenues.

23 (4) ONLINE MARKETPLACE.—The term “online
24 marketplace” means any electronically based or
25 accessed platform that—

1 (A) includes features that allow for, facili-
2 tate, or enable third-party sellers to engage in
3 the sale, purchase, payment, storage, shipping,
4 or delivery of a consumer product in the United
5 States; and

6 (B) hosts one or more third-party sellers.

7 (5) SELLER.—The term “seller” means a per-
8 son who sells, offers to sell, or contracts to sell a
9 consumer product through an online marketplace.

10 (6) THIRD-PARTY SELLER.—

11 (A) IN GENERAL.—The term “third-party
12 seller” means any seller, independent of an op-
13 erator, facilitator, or owner of an online mar-
14 ketplace, who sells, offers to sell, or contracts to
15 sell a consumer product in the United States
16 through an online marketplace.

17 (B) EXCLUSION.—The term “third-party
18 seller” does not include a seller who—

19 (i) is a business entity that has made
20 available to the general public the entity’s
21 name, business address, and working con-
22 tact information;

23 (ii) has an ongoing contractual rela-
24 tionship with the owner of the online mar-
25 ketplace to provide for the manufacture,

1 distribution, wholesaling, or fulfillment of
2 shipments of consumer products; and

3 (iii) has provided to the online mar-
4 ketplace identifying information, as de-
5 scribed in subsection (a), that has been
6 verified pursuant to that subsection.

7 (7) VERIFY.—The term “verify” means to con-
8 firm information provided to an online marketplace
9 pursuant to this section by the use of—

10 (A) a third-party or proprietary identity
11 verification system that has the capability to
12 confirm a seller’s name, email address, physical
13 address, and phone number; or

14 (B) a combination of two-factor authen-
15 tication, public records search, and the presen-
16 tation of a government-issued identification.

17 **SEC. 3. EFFECTIVE DATE.**

18 This Act shall take effect 180 days after the date of
19 the enactment of this Act.

○