

New FTC Guidance: The INFORM Consumers Act’s Impact on Online Marketplaces’ Third-Party Sellers

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The Federal Trade Commission (FTC) has issued [guidance](#) on how the Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers Act (the “INFORM Consumers Act” or “Act”) may impact online sellers who offer consumer products through online marketplaces.

The Act, as described in our prior [blog post](#), is aimed at addressing consumer complaints about online purchases of stolen, counterfeit, or defective products. As of the Act’s 27 June 2023 effective date, online marketplaces are now generally required to obtain, verify, and disclose certain financial and business information about high-volume sellers on their platforms.

An online seller falls under the scope of the Act if it meets the following three requirements:

The Seller Offers Products for Sale on a Platform That Meets the Act’s Definition of an “Online Marketplace”

The FTC guidance highlights that, while many of the online platforms that meet the definition of “online marketplace” are national names, smaller “niche platforms” may also be covered. The Act does not cover only large and commonly known e-commerce marketplaces but also reaches smaller platforms—even marketplaces with as few as one third party seller.

The Merchandise Sold by the Seller Meets the Definition of a “Consumer Product”

The Act incorporates the Magnuson-Moss Warranty Act definition of “consumer product,” which is “tangible personal property for sale and that is normally used for personal, family, or household purposes.”

The Seller Meets the Definition of a “High-Volume Third Party Seller”

A seller qualifies if, in any continuous 12-month period during the past 24 months, it had 200 or more

separate sales or transactions of new or unused consumer products and US\$5,000 or more in gross revenues. Only sales through the online marketplace for which payment is processed by that marketplace are counted for the 200 threshold. There are exceptions for certain businesses that have a contractual relationship with the online marketplace to manufacture, distribute, wholesale, or fulfill shipments of consumer products.

Once a seller satisfies these criteria on a particular online marketplace, the marketplace has ten days to collect the seller's bank account information, tax identification number, and contact information (including an acceptable form of ID). At least once a year, marketplaces are required to have their qualifying high volume sellers certify that the information collected has not changed or that it has been updated. Sellers should note that the Act requires marketplaces to suspend future sales of sellers who fail to provide this information or do not respond to requests for updated information.

The Act also provides that marketplaces must disclose seller contact information to consumers for its high volume sellers with annual gross revenues of US\$20,000 or more (though there is a provision for limited disclosure for sellers who operate businesses out of their homes).

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