

May 27, 2021

The Honorable Maria Cantwell
Chairwoman
Commerce, Science, and Transportation
Committee
U.S. Senate
Washington, DC 20510

The Honorable Roger Wicker
Ranking Member
Commerce, Science, and Transportation
Committee
U.S. Senate
Washington, DC 20510

Dear Chairwoman Cantwell and Ranking Member Wicker:

On behalf of the Electronic Transactions Association (ETA), I am writing to raise concerns with the INFORM Consumers Act introduced by Sens. Durbin and Cassidy and the inclusion of it in the *U.S. Innovation and Competition Act*. While we applaud the goal of stopping harm to consumers, Congress should consider legislation that all applies to all business models not just online small businesses. The legislation imposes significant burdens and harms legitimate small businesses and entrepreneurs who sell on online marketplaces.

As more Americans utilize online shopping options, e-commerce marketplaces are helping connect consumers with online small businesses and internet enabled entrepreneurs to drive sales domestically and around the globe. This surge of e-commerce businesses has helped the country's economic recovery from the COVID-19 pandemic, and we cannot afford to stifle economic growth when we need it most.

Specifically, we are concerned with:

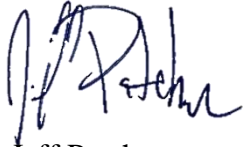
- **Payment Processors Providing Financial Information**
ETA is concerned that this legislation would require payment processors to provide marketplaces with sensitive financial information, which may be prohibited by contract, and could increase the risk of fraud.
- **High-Volume Third Party Seller Threshold**
The INFORM Consumers Act defines a “high-volume third party seller” as a merchant who sells more than \$5,000 a year. The threshold should be raised to \$25,000 to more accurately represent the size of high-volume domestic and international sellers across the diverse marketplaces business models and operations across the industry. In order to mitigate against unnecessary capture of single sale sellers through a single high-value item (e.g. car, purse, or collectible) language should be altered to ensure 200 transactions and \$25,000 in sales.
- **Disclosure of Information**
The INFORM Consumers Act will require many online sellers to divulge sensitive information, including their full name, where they live, and their email address even if it's personal, on their online listings. Online sellers are already able to interact with customers via the trusted messaging capabilities available on marketplace platforms,

allowing them to provide customer service while still ensuring their personal security and privacy. Requiring sellers to disclose that information to a buyer is unnecessary and this policy would strip sellers of their privacy protections and open them up to identity theft and fraud.

Policymakers should consider legislation that applies to all business models, not favor one type of retailer over others. We share policymakers' goals of protecting consumers from bad actors, and we look forward to working with you and your staff to address the concerns above.

If you have any questions, please contact me or ETA's Senior Vice President of Government Affairs, Scott Talbott at stalbott@electran.org.

Sincerely,



Jeff Patchen
Senior Manager of Government Affairs
Electronic Transactions Association

