

Locke Lord QuickStudy: INFORM Consumers Act Will Attempt to Curb Sale of Counterfeit Goods Online

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The Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers Act (the “INFORM Consumers Act” or the “Act”) signed into law in 2022 will go into effect on June 27, 2023, and will have a major impact on the sale of counterfeit consumer products on online marketplaces. The Act requires online marketplaces to collect, verify, and disclose identifying information of “high volume third party sellers” as a means of undermining the ability for stolen, counterfeit, or unsafe goods to be sold through online marketplaces. The Act requires sellers to provide their full name, address, bank account number, a tax identification number, and a working email and phone number within 10 days of meeting the high volume definition. The Act defines a “high volume” seller as any seller that has made 200 or more sales within a 12-month period and have made at least \$5,000 in gross revenue. The seller’s information must be verified by the online marketplace and sellers will have to include their identifying information on either their page or within the order confirmation. Online marketplaces must suspend sellers that fail to comply. If a seller falsely represents their product, the online marketplace has 10 days to remove them from their platform.

The Federal Trade Commission is responsible for enforcing the INFORM Consumers Act, and state attorneys general are provided with the right to bring civil actions against online marketplaces for noncompliance with the Act that affects residents of their state. Online marketplaces violate their enforcement obligations when online vendors engage in unfair or deceptive practices. Online marketplaces will also have to establish reporting mechanisms to allow for consumers to report suspicious marketplace activity by electronic or telephonic communication. Violations of the INFORM Consumers Act will face civil penalties of up to \$50,120 per violation.

This increase in online seller transparency and enhanced enforcement should make it significantly harder to sell counterfeit products on online marketplaces like Amazon and eBay.

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