



WRITTEN TESTIMONY OF COLLEEN DALEY
INTERNET ASSOCIATION
OHIO HOUSE OF REPRESENTATIVES
COMMERCE AND LABOR COMMITTEE
REPRESENTATIVE DICK STEIN, CHAIRMAN
IN OPPOSITION TO HB272

Oct 13, 2021

Good afternoon Chairman Stein, Vice Chairman Johnson, Ranking Member Lepore-Hagan, and members of the House Commerce and Labor Committee, my name is Colleen Daley and I am the Midwest Director of State Government Affairs for the Internet Association. IA represents over 40 of the world's leading internet companies. We are dedicated to advancing public policy solutions that foster innovation, promote economic growth, and empower people through the free and open Internet.

I am here today to explain why we oppose HB 272. I sent each of you a letter highlighting our concerns and I understand that several IA member organizations have contacted you about their opposition to this bill independently, but I appreciate the opportunity to provide testimony today on some of the internet industry's primary concerns with this legislation.

We certainly understand the stated goal of this legislation to identify and capture individuals who have stolen or counterfeited goods. But this bill does not stop or deter such unlawful activities. Instead, the bill places a burden on small businesses that are not the targets within the stated goal.

Our first concern is the negative effect this proposal will have on Ohio small businesses. We are concerned about how the bill affects small businesses, micro businesses, and solo entrepreneurs who are already suffering due to the global pandemic. The verification mandates in this bill will harm small businesses selling goods online. This is because the bill will force online marketplaces to choose between increased liability exposure or removing listings of small businesses, microbusinesses, and entrepreneurs - a choice not faced by big box retailers with both in-person retail space and an online presence that are exempt from this legislation.

Further, this bill's requirements will raise small businesses start-up costs and increase administrative burdens associated with registering a third-party and obtaining records they may not otherwise be required to obtain.



In Ohio there are over 100,000 businesses who sell products on various platforms. On one platform over 90% of the women-owned businesses sell products to 10 or more markets globally. On another platform 4 out of every 5 sellers are women and almost all of them are working out of their own homes. These are businesses that thrive in the online marketplace.

But, HB 272 assumes that any of these businesses that reach a certain threshold of success annually are doing so through illicit means, and must therefore turnover sensitive and personally identifiable information to prove their innocence and legitimacy. For many of the solely-owned or microbusinesses on these platforms, this means their home address, personal financial information, personal email address, and home phone number. This leads directly to our next top concern.

Which is, compliance problems this bill creates for marketplaces of all sizes. Simply put, we find HB 272 to be unworkable with respect to

- 1) capturing and verifying identification information and bank account information of high volume sellers, and
- 2) increasing liability for privacy risks.

The practical effect for most marketplaces is that they will have to collect all seller's identification information when a seller joins the marketplace. This increases privacy risks for all sellers who will now have to give their home addresses and bank information to marketplaces. The alternative is suspension from the platform and loss of income.

Providing bank account information to marketplaces is especially concerning because sharing this sensitive financial information could lead to increased fraudulent activity. The bill does not provide clear direction on a verification process for bank information or the security of that bank information when other seller information is publicly available.

Further, the requirements of this bill regarding wide disclosure of sensitive personally identifiable information runs counter to the current dialogue on consumer privacy and data security laws being considered here in Ohio right now. While this legislation purports to include exemptions for sellers operating out of their residences, the exemptions fail to provide sufficient protections. For example, a marketplace must relinquish any of the limited disclosure requirements for a seller who simply has not responded to an inquiry from another user of a marketplace in a "reasonable time."

If you were a sole proprietor, trying to sell your products online do you believe the verification requirements would do anything to help your business grow? How would you feel about having



your home address and bank account information available for the world to see? These provisions only make being a small business more difficult.

Finally, IA believes current practices are addressing marketplace problems - IA member companies already have in place a number of procedures and practices to combat illegal and suspicious activities. I would note for you that our member organizations with platforms that allow these businesses to thrive have their own policies, and terms and conditions to regulate sellers and the goods they sell. All of them prohibit the sale of stolen and counterfeit goods, and all have a mechanism in place to report or initiate a report regarding a sale that may violate those policies.

Not to mention, they all have dedicated teams that work with the retail sector and law enforcement to investigate suspected criminal activity online. We know that our retail partners are the experts in their operations and product base, and thus coordination with them is critical.

Also, law enforcement already has the authority and means to detect suspicious activity and enforce intellectual property laws and they should be empowered to address the issue of Organized Retail Crime at its source, namely the brick-and-mortar locations in which brazen criminals are strolling into stores, clearing whole shelves worth of product, and calmly walking out. The fact that some of this product ends up online is inevitable, but giving law enforcement additional resources to investigate and prosecute ORC rings could prevent many thefts from happening in the first place.

Lastly, we all agree that Organized Retail Crime is a very serious and complex problem, and that protecting consumers from illegal products, whether they be stolen or inauthentic - and no matter how they enter the supply chain - is an important priority.

But as mentioned, to effectively combat the rise in organized retail crime there needs to be close collaboration between law enforcement, retail stores, and online marketplaces. These criminal activities are most successfully disrupted when all legs of the stool are working together.

In fact, just last month I stood up at a press conference in Chicago with retailers and law enforcement in support of Illinois Attorney General Kwame Raoul's creation of an organized retail crime task force. That task force will go directly at the heart of organized retail crime. This approach features enforcement tools that are far less intrusive to honest business owners, and only disrupts the bad actors who are the true targets of this legislation. This bill does not do that.

Instead, the legislation before you today does nothing to address the issue of ORC at its source, namely the targeting of brick and mortar retailers and theft of merchandise from store shelves. For these reasons, we respectfully request that the committee not advance HB 272, but rather to focus



on solutions supported by law enforcement, the internet industry, and retailers that combat ORC as a whole through a more collaborative and equitable approach.

Thank you for your time and consideration.