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CONSUMER PROTECTION DIVISION

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February 2, 2022

To: The Honorable C.T. Wilson
Chair, Economic Matters Committee

From: Steven M. Sakamoto-Wengel
Consumer Protection Counsel for Regulation, Legislation and Policy

Re: House Bill 295 – Commercial Law - Consumer Protection – Online Marketplace
Disclosure Requirements (SUPPORT WITH AMENDMENTS)

The Consumer Protection Division of the Office of the Attorney General supports House Bill 295, sponsored by Delegates Qi, Fraser-Hidalgo, Henson and Ruth, with the amendments discussed below. House Bill 295, also known as the INFORM Act, would help to cut down on the sale of counterfeit and stolen products on online marketplaces like Amazon and Facebook by, among other things, requiring those online marketplaces to verify information about third-party sellers on their websites. The bill would also require disclosure of information about third-party sellers to assist consumers who may have disputes.

The Division has received complaints from consumers who have purchased goods from third-party sellers through online marketplaces that have turned out to be counterfeit, stolen or defective. House Bill 295 would help to address this situation by ensuring that the online marketplace obtain basic information to verify the legitimacy of the third-party seller, including tax identification and bank or payment account information. The bill would also require that the online marketplace disclose contact information for the third-party seller to consumers if a problem arises.¹

The Division believes that House Bill 295 would help to cut down on the ability of rogue third-party sellers to hide behind anonymity on online marketplaces. However, the Division believes that some of the provisions of House Bill 295 would need to be amended:

¹ Nothing in House Bill 295 would diminish any liability that an online marketplace would have for the sale of counterfeit goods on its website.

- Section 14-4401(b)(1) defines the term “Consumer Product” (page 2, lines 10 through 14). However, the Consumer Protection Act uses the term “Consumer Goods”, Commercial Law § 13-101(d). The Division is concerned that introducing the term “Consumer Product” could create confusion in enforcing the law and recommends that Consumer Product be replaced by “Consumer Goods” throughout the bill.
- The Division is not sure about the intent of section 14-4406 (page 8, lines 17-22) or what constitutes a political subdivision. The Division notes that both Montgomery and Howard Counties have consumer protection offices that assist consumers and undertake enforcement actions for violations of consumer protection laws. Section 14-4406 could impair the ability of those offices to assist consumers who are victims of fraudulent third-party sellers. The Division recommends that the section be deleted from the bill.
- Section 14-4407 (page 8, line 24) provides that the Division “shall” issue regulations to carry out the INFORM Act. While the Division believes that regulations might be appropriate in implementing the law, the Division also believes that a determination of whether regulations are needed warrants changing the requirement (“shall”) to an authorization (“may”).

Accordingly, the Division respectfully requests that the Economic Matters Committee return a favorable report on this bill with the amendments discussed.

cc: The Honorable Lily Qi
The Honorable David Fraser-Hidalgo
The Honorable Shaneka Henson
The Honorable Sheila Ruth
Members, Economic Matters Committee