



1stDIBS



MERCARI



March 17, 2021

The Honorable Sean Tarwater, Chair
Commerce, Labor, and Economic Development Committee
Kansas State Legislature
300 SW 10th Street
Topeka, KS 66612

Re: HB 2433 - Oppose

Dear Chair Tarwater and Members of the Committee,

We write to respectfully express our opposition to HB 2433, legislation that would impose substantial new requirements for online small businesses based in Kansas. While we share the goal of protecting consumers and curtailing organized retail crime, this bill does little to achieve that goal and instead places onerous regulations on Kansas small businesses at a time when they can least afford it. We are also concerned about how this bill violates the privacy of everyday Kansans by requiring them to disclose personally identifiable information online, forcing them to compromise private information in order to continue selling on online platforms.

Together, our companies enable thousands of small businesses and individual sellers throughout Kansas to reach customers down the street and around the world. These online small businesses and individual home-based sellers are located across Kansas communities large and small, rural and urban, and provide access to consumers for a wide variety of products. These entrepreneurs have been especially instrumental during the COVID-19 crisis in helping consumers receive essential goods while sheltering in place or socially distancing.

With Kansas small businesses and individual sellers in mind, we urge the committee not to advance HB 2433, which undermines small online businesses in Kansas while posing significant privacy and individual disclosure requirement concerns. HB 2433 requires online marketplaces to: 1) verify the identity of sellers who become “high-volume third-party sellers;” 2) require the seller to provide specific contact information on its website to provide more certainty to consumers and others that they can communicate with online sellers; and 3) create a mechanism for reporting suspicious marketplace activity. The requirements of HB 2433 are overly burdensome and disregard existing efforts to protect consumers deployed by online marketplaces, rights owners, and law enforcement. HB 2433 would unnecessarily disadvantage third-party sellers who use online marketplaces.

Importantly, our platforms are not retailers. We do not buy or sell goods, nor do we compete with our sellers by manufacturing or selling products on our own. We do not own warehouses or directly manage the delivery of products. We succeed when the entrepreneurs that use our platforms succeed – including tens of thousands throughout Kansas.

The requirements to collect and verify annually a substantial set of information for “high volume sellers” are impractical, unnecessary and would negatively affect small businesses who sell online. The volume of sellers on our platforms who would fall under this definition – those who engage in 200 or more sales totaling \$5,000 or more – is staggering. Annual verification of the extensive list of information for these sellers may prove challenging at best for even the most established online platforms.

Further, the bill creates significant privacy concerns for Kansans by requiring the extensive collection and disclosure of personally identifiable information. Those unwilling to divulge highly personal information would be forced to stop listing their products and lose essential revenue streams. If HB 2433 were enacted in its current form, a farmer from Courtland selling used farming equipment or a grandmother from Overland Park selling hand sewn face masks may risk sharing personal identifiable information widely online, including their full name, home address, telephone number, and email address. We are concerned that these inherent privacy risks will have a chilling effect on ecommerce by deterring many Kansans from selling online. This would limit Kansans’ access to different products not readily found in a local shop or big box retailer and would ultimately harm Kansas’ economy.

Our companies have a long-standing commitment to both consumer and rights owner protection; these values are central to our companies. That is why we heavily invest in deploying technological tools, processes and personnel to prevent prohibited items from being

listed on our platform or expeditiously removing any items not allowed on our sites. We have proactively partnered with retailers, brands, and regulators; implemented clear policies; and, worked collaboratively with law enforcement and other relevant stakeholders to enforce our policies to find and remove bad actors unlawfully using our marketplace. As threats against consumers and rights owners evolve, our companies are continuously seeking ways to improve our efforts to fight against counterfeiters and bad actors. We invest millions of dollars annually to fight unlawful listings, including stolen and counterfeit goods, that may appear on the platform. While the vast majority of our listings come from honest, law-abiding sellers, counterfeits and prohibited items are simply not welcome on our platforms.

We appreciate the opportunity to share our opposition to HB 2433 and urge you to reject in committee. Our companies are deeply committed to our sellers' privacy protections. As a group of third-party e-commerce platforms powered by small sellers, we are committed to developing policies and tools to combat infringing or unsafe goods that may appear on our platforms. We welcome the opportunity to work with the legislature and other partners to combat illegal goods, protect consumers, and support small businesses, but unfortunately, HB 2433 does not advance these important goals. With these concerns in mind, we request that this letter be made part of the record.

Sincerely,

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