



March 19, 2025

House Business Affairs and Labor Committee
Attn: Horojah Jawara
Colorado State Capitol Building
200 E Colfax Ave
Denver, CO 80203

Re: SB 25-070 – "Concerning requirements for online marketplaces with respect to third-party sellers." (Oppose)

Dear Chair Ricks and members of the House Business Affairs and Labor Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose SB 25-070 in advance of the House Business Affairs & Labor Committee hearing on March 19, 2025. CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.¹ Proposed regulations on the interstate provision of digital services therefore can have a significant impact on CCIA members.

Keeping consumers and communities safe online is a universally shared goal. However, unclear or ambiguous definitions could undermine the legal certainty that presently exists under federal law, and this bill raises the following concerns:

SB 25-070 is premature given recent developments at the federal level.

Congress recently enacted the Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers Act ("INFORM")², which preempts conflicting state legislation. The "Relationship to State laws" section reads: "No State or political subdivision of a State, or territory of the United States, may establish or continue in effect any law, regulation, rule, requirement, or standard that conflicts with the requirements of this section."³ Congress clearly contemplated and intended to preempt conflicting state regulation. As a federal court held last year when a similar state bill was challenged, "the INFORM Act also includes an explicit preemption clause."⁴ Policymakers should allow this newly enacted and implemented law time to work in order to understand its real-world impact and determine if additional legislative responses or course corrections are required.

¹ For more than 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.

² Codified at 15 U.S.C. § 45f (2022).

³ *Id.* § 45f(g).

⁴ *NetChoice, LLC v. Carr*, No. 24-cv-02485, 2024 WL 3262633, at *1 (N.D. Ga. June 30, 2024).



SB 25-070's knowledge standard and monitoring requirement would create serious compliance questions and unintended consequences for both businesses and users.

SB 25-070 “requires an online marketplace to alert a law enforcement agency if the online marketplace knows or should have known that a third-party seller is selling or attempting to sell stolen goods to a consumer in Colorado.” This unreasonably overbroad knowledge standard goes far beyond “actual knowledge” and would extend to constructive knowledge and even suspected attempts. How “should” a business know about the provenance of a third-party’s inventory, let alone “attempted” transactions, especially if such transactions do not occur on the marketplace in question? It is not clear how they would obtain information that only others in the supply chain would possess. Compliance appears impossible.

The bill also poses an infeasible mandate to “monitor product listings to detect and prevent organized retail crime.” It seems to recognize that this would be extremely burdensome, given that it would require establishing “internal systems, staff, and written policies”. This would be challenging for startups and small businesses with limited resources, and may result in some marketplaces shutting down if they can’t comply. It could also lead to online marketplaces erring on the side of taking down legitimate content and products, to the detriment of consumers seeking affordable products on the resale market. While the intent to combat crime is laudable, this requirement seems untenable.

CCIA recommends eliminating this requirement, as the obligation to establish “a mechanism that allows the online marketplace to communicate with a law enforcement agency in a timely and confidential manner, through a link to a dedicated web page, online portal, or point of contact” is far more reasonable to comply with, and is sufficient to achieve the bill’s purposes.

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While we share the goals of the bill’s prime sponsors about protecting consumers online, we encourage Committee members to resist advancing legislation that is not adequately tailored to this objective. We appreciate the Committee’s consideration of these comments and stand ready to provide additional information as the Colorado Legislature considers proposals related to technology policy.

Sincerely,

Aodhan Downey
State Policy Manager, West
Computer & Communications Industry Association