



**Statement of Dharmesh M. Mehta
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Committee on Energy and Commerce
Subcommittee on Consumer Protection and Commerce
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Thank you, Chairwoman Schakowsky, Ranking Member McMorris Rodgers, and members of the Subcommittee for inviting me to participate in today's hearing. I also want to thank the full Committee's Chairman Pallone and Ranking Member Walden for their longstanding leadership.

My name is Dharmesh Mehta, and I am the Vice President of Worldwide Customer Trust and Partner Support at Amazon. I have the privilege of leading the teams dedicated to ensuring that we prevent fraud, counterfeits, fake reviews, and other forms of abuse from harming our customers, brands, and selling partners, and the teams dedicated to helping support our selling partners in succeeding in our stores. I also work closely with the Amazon teams dedicated to ensuring that we prevent unsafe or otherwise non-compliant products from being sold in our stores.

I would like to address six areas in my testimony. First, Amazon's customer-centric philosophy, including our support for the millions of small businesses that are our partners. Second, Amazon's significant investments in advanced technology and proactive efforts to protect our customers and our selling partners from counterfeits and unsafe products. Third, our development of innovative tools that empower rights owners and brands to efficiently partner with us to drive counterfeits to zero. Fourth, our tailored enforcements to deter bad actors while protecting honest small businesses and entrepreneurs. Fifth, Amazon's partnerships with rights owners and government agencies, including law enforcement, to combat counterfeiting and unsafe products. And finally, a few areas where we believe additional actions would strengthen collaboration and cooperation throughout the retail industry and improve our collective fight against counterfeits and unsafe products on behalf of consumers.

I. Delighting Customers in Partnership with Small Businesses.

Amazon's mission is to be Earth's most customer-centric company. We work vigorously to earn and keep customer trust, and our obsession with delivering an amazing customer experience is at the heart of everything we do. Our philosophy is simple: work backwards from what customers want – convenience, selection, and low prices – and constantly innovate to make our store better. As a result of our commitment to this principle, Amazon is consistently ranked one of the most trusted brands in the world. However, we do not take this trust for granted, and we remain as committed as ever to exceeding our customers' high expectations.

This same commitment informed our decision, in 1999, to open our store to small and medium-sized businesses to sell alongside us. We wanted to give customers greater selection and lower prices, while still making certain that the customer experience offered by these businesses met the same high bar to

which we hold ourselves. Sellers now delight our customers every day with vast selection, great prices, and convenient delivery – they make up 58% of physical gross merchandise sales in our store, and are growing nearly twice as fast as Amazon’s own sales. In 2019, small and medium-sized businesses made an average of over \$100,000 selling in Amazon’s stores, and we estimate these sellers have created over 800,000 new jobs in the United States.

By offering small and medium-sized businesses a low-cost way to reach customers worldwide, Amazon lowers barriers to entry for entrepreneurs, helps make retail even more vibrantly competitive, and offers increased selection and lower prices to consumers. The reason our store model has worked so well, and why both Amazon and our selling partners have thrived since we introduced it, is that empowering third-party sellers while maintaining a high bar for what sellers must achieve helps create a better customer experience than Amazon could otherwise provide on its own. This is why retailers around the world have adopted multichannel distribution and are opening their doors to third-party sellers, just as we did 20 years ago.

II. Amazon’s Innovative Capabilities to Prevent Counterfeits and Unsafe Products.

Stores like ours provide tremendous selection, convenience, and value to consumers, as well as unprecedented opportunities for millions of small and medium-sized businesses. Unfortunately, this also presents an attractive target for criminals and bad actors to attempt to attack our stores. These attacks present a serious risk to our business – if customers do not trust what they purchase through Amazon’s stores, we know they can and will shop elsewhere.

As a result, Amazon invests tremendous resources in preventing counterfeits, unsafe products, and other types of abuse in our store. In 2019 alone, we invested over \$500 million and have more than 8,000 employees who focus on these efforts to prevent fraud and abuse in our stores. As a part of these investments, Amazon goes well beyond our legal obligations and invests heavily in proactive efforts to prevent bad actors from entering our stores and bad listings – including counterfeits and unsafe products – from ever being seen in our stores.

As part of our commitment to ensuring that only authentic and safe products are offered in our store, Amazon strictly prohibits the sale of counterfeit products, and we require all products in our store to comply with applicable laws, regulations, and Amazon policies. However, our primary focus is on preventative, technology-driven tools designed to proactively stop fraud and abuse before it ever affects a customer or selling partner. Third parties selling on Amazon go through a set of enhanced vetting, must qualify to sell certain products, and are responsible for adhering to our policies and maintaining a high performance bar. When a new account is created, our vetting includes a number of verifications and uses proprietary machine learning technology to stop bad actors before they can list a single product for sale in our store. Once a seller is able to sell products in our store, we continuously scan all new product updates from those sellers as well as our existing catalog to find products that might present a concern. When we find something concerning, we may block that listing, ask for more information, or conduct further investigation. We have similar ongoing processes in place to monitor and stop potentially fake or abusive reviews.

We also listen to signals and feedback from customers, rights owners, regulators, and our selling partners to help us identify and swiftly remove bad listings that make it past our proactive controls. For example, we continuously monitor the more than 45 million pieces of feedback we receive from our customers each week, searching for any indication of an issue. Where we find an issue, we not only take action to address the specific issue, but we also use this to constantly improve our proactive controls to

prevent these issues from occurring in the first place. This monitoring often allows us to detect potential issues well before other industry participants or regulators have detected them or developed clear guidance on how to handle a situation. As a result, we also regularly alert regulators to the issues we are seeing, and we work together to establish new guidelines not just for Amazon, but for the entire industry.

In the case of recalls, many retailers wait to be notified by a regulatory agency, but we are constantly scouring data from the U.S. Consumer Product Safety Commission (CPSC) and many other agencies that provide notice of recalls in order to more quickly detect and take action. Additionally, we know who bought each product sold in our store, and so we can quickly notify them privately and directly – which is far more effective than traditional, physical store-only retailers who may have to post signs in their stores and hope that customers return and see them to learn of the recall. We use the same proactive scans to identify safety risks and we remove unsafe products when we identify them. We also work with CPSC to proactively notify customers when CPSC did not issue a recall, but there was a safety-related risk to our customers. Amazon also proactively notifies and refunds customers when we suspect they have purchased a counterfeit product – even when those products were sold by a third-party seller in Amazon’s stores.

Beyond these proactive innovations, every Amazon customer is also protected by our A-to-z Guarantee. If a customer suspects an issue with any product they purchase – whether from Amazon or a third-party seller – Amazon ensures the customer is taken care of and in the case of third-party sellers, Amazon will refund the purchase price if the seller refuses to do so.

Our investments are producing positive results. In 2019, our proactive efforts prevented over 2.5 million suspected bad actor accounts from publishing a single product for sale in our stores, blocked over 6 billion suspected bad listings from being published on our stores, and blocked and suppressed more than 100 million suspected fake reviews. Our efforts have also ensured that 99.9% of all Amazon page views by our customers landed on pages that did not receive a valid complaint from rights owners or customers of potential counterfeit.

III. Amazon’s Innovative Counterfeit Prevention Tools for Rights Owners.

In addition to our investments in proactive efforts that Amazon drives on its own to keep bad actors, counterfeits, and unsafe products out of our stores, we have developed industry-leading brand protection tools to empower intellectual property (IP) rights owners to help us better protect their brands and drive counterfeits to zero. These tools enable Amazon to leverage the knowledge that rights owners have about their products along with the technology and machine learning capabilities that Amazon has to maximize our impact together.

Proactively Protecting Brands through Amazon Brand Registry. In 2017, we launched Brand Registry, which is free to any rights owner with a government-registered trademark, regardless of their economic relationship with Amazon. Brand Registry delivers automated brand protections that use machine learning to predict infringement and proactively protect a brands’ IP. Brand Registry also provides a powerful Report a Violation tool that allows brands to search for and accurately report potentially infringing products using state-of-the-art image search technology. Brands in Brand Registry also receive better control over the photos, videos, and other information about their brand on Amazon’s product detail pages – so brands can ensure product information is accurate and customers can make confident, informed purchasing decisions on Amazon. More than 350,000 brands are enrolled in Brand Registry, and those

brands are finding and reporting 99% fewer suspected infringements than before the launch of Brand Registry.

Authenticating Every Product Unit through Transparency. In 2018, we launched a new service called Transparency that effectively eliminates counterfeits for enrolled products. This service relies on unit-level serialization, where brands apply a unique 2D code (similar to a QR code) to every unit they manufacture, allowing Amazon, other retailers, law enforcement, and customers to determine the authenticity of each unit in the supply chain for that product. The most powerful part of Transparency is that every time a product using Transparency is shipped through our fulfillment centers (FCs) or shipped by a seller directly to a customer, we verify the authenticity of the unit in our fulfillment processes or through the listing tools used by our sellers to ship products themselves, ensuring only authentic products are received by customers. Additionally, Transparency has a dedicated mobile app that consumers can use to authenticate their products regardless of where their products are purchased (in addition to seeing richer product data such as the manufacturing date, location, and expiry). Since Transparency's launch in 2018, over 7,500 brands have enrolled, protecting over 25,000 products, and preventing over 400,000 counterfeits from being sold.

Empowering Brands through Project Zero. Project Zero is a new program launched in 2019 that empowers brands to help us drive counterfeits to zero. In addition to the automated brand protections and product serialization that we already offered, Project Zero added a novel capability – a self-service counterfeit removal tool that enables brands to remove counterfeit listings directly from our stores. This enables brands to take down listings on their own and within minutes, rather than having to report suspected counterfeits to Amazon for review. Since Project Zero launched in 2019, over 9,000 brands have already enrolled.

Defending IP Rights through the Amazon Intellectual Property Accelerator. In October 2019, we launched the Amazon Intellectual Property Accelerator to help emerging brands more quickly obtain the most effective IP rights, and to use this process to obtain brand protection in Amazon's stores faster than waiting for government-issued trademarks. We created IP Accelerator specifically to make it easier and more cost effective for small and medium businesses to protect their inventions. IP Accelerator connects entrepreneurs directly with a curated network of trusted law firms that provide high quality trademark registration services at competitive rates to help brands secure a trademark. When businesses use these law firms to successfully file a trademark application, Amazon provides their brands with accelerated access to certain brand protections in Amazon's stores. Since we launched IP Accelerator, we have been able to connect more than 1,500 brands with our network of vetted IP law firms. In addition, more than 500 brands have already had applications submitted and received accelerated brand protection in our stores.

Improving Utility Patent claim processes through the Utility Patent Neutral Evaluation Process. In 2019, Amazon piloted the Utility Patent Neutral Evaluation process, which allows utility patent owners to more efficiently and effectively address suspected infringers, gives sellers a forum to contest accusations, and significantly reduces the time and cost burden on both parties compared to federal litigation. An average patent lawsuit can take years and can cost hundreds of thousands or even millions of dollars. Comparatively, this new process should take no longer than four months and requires only a deposit of \$4,000, which is fully refundable to the winner. The process is entirely voluntary and allows utility patent holders to have their case investigated

by a neutral third-party evaluator with expertise in law and utility patents. Amazon does not receive or hold any funds in the process – we only facilitate this process to more efficiently and effectively address suspected infringement.

The innovative tools Amazon is inventing are designed to work for all brands, from large, multi-national brands to budding entrepreneurs launching new businesses from their homes. We actively educate businesses and brands about these tools – Brand Registry, Transparency, Project Zero, IP Accelerator, and the Utility Patent Neutral Evaluation Process – to help better protect their brands. We also constantly seek feedback from these rights owners so we can continue to innovate on these tools and how we empower rights owners to partner with us to drive counterfeits to zero.

IV. Tailoring Enforcement to Balance Deterrence and Seller Trust.

Enforcement is also an important part of our prevention efforts, and we act swiftly to remove suspected counterfeit listings and block suspected bad actor accounts. However, we know that rights owners, sellers, and Amazon can make mistakes when assessing claims of counterfeits. Additionally, some rights owners abuse our IP notice tools to attempt to enforce their distribution agreements, and we also see bad actors file false reports against their competitors. Therefore, we work hard to minimize erroneous enforcement of honest entrepreneurs who sell their products through our stores, and we have a number of controls that require additional verification for notice submissions to prevent abuse.

We strive to tailor our enforcement actions to align with the perceived risk and our confidence in the accuracy of our actions. First, when we receive a valid notice of infringement, we always remove the infringing listing at issue and warn the seller of the violation, but we base our decisions to suspend a seller's entire account on the riskiness of the seller, the trustworthiness of the rights owner who filed the notice, and past violations for that seller. Second, we strive for transparency with our sellers and offer them the opportunity to correct errors. When we take action against suspected violations, our goal is to provide clear and actionable communications to sellers, describe the policy violation that led to the enforcement, and offer an appeals process handled by specialized teams where sellers can explain how they will prevent the violation from happening in the future, or prove that we or the rights owner made a mistake. Third, we try to reduce mistaken and unnecessary enforcement before it impacts our sellers. We often call sellers before suspensions occur to try to address the underlying issue and prevent account suspension for honest entrepreneurs in the first place. We also closely monitor our decision accuracy, analyze our mistakes (in both over and under enforcement) to understand how they occurred, and use those lessons to prevent similar mistakes from happening in the future.

We also use financial disincentives to deter counterfeiting and other forms of abuse in our stores. When we block an account for confirmed counterfeit sales, we seize any funds in the bad actor's accounts, and we use the funds to pay for customer refunds, reduce our overall bad debt, and help defray the costs of fighting counterfeits. Similarly, where we have conviction that products in our fulfillment network are counterfeit, we seize the inventory and destroy it. In situations where we hold funds or seize inventory, we always provide sellers with a path to appeal our decision and to demonstrate that their funds and/or inventory should be released.

V. Amazon's Partnerships in the Fight Against Bad Actors.

While abusive attacks on the global supply chain are not a new problem, counterfeiters and other bad actors are attempting fraud and abuse at a previously unseen scale. Further, more nefarious types of fraud and abuse, such as counterfeits and unsafe products, often occur as part of complex schemes that are attempted through the use of data obtained through breaches of other companies, use of social media websites and web hosting providers, and also involve other industry participants. This is an

industry-wide problem that impacts many different types of businesses. For example, bad actors may purchase online advertising from search engines or social media to reach consumers, and then direct them to an online store powered by a commercially-available ecommerce website solution – allowing the bad actors to try to sell counterfeits or unsafe products from their own website. Other bad actors may use social media to coordinate obtaining fake reviews on another website by compensating customers within those social groups. There are many different ways that bad actors attempt to sell counterfeit and unsafe products, and it will take the partnership of retailers, marketplace service providers, rights owners, government agencies, and law enforcement to stop bad actors.

We continue to work with government agencies and law enforcement to hold criminals accountable. We also agree with many of the recommendations in the Department of Homeland Security's (DHS) recent report, "Combatting Trafficking in Counterfeit and Pirated Goods," and in fact already implement most of the best practices recommended by that report. Beyond that report, working with DHS and the National Intellectual Property Rights Coordination Center, we have begun reporting all confirmed counterfeiters that we have permanently blocked from our stores. We encourage other retailers, marketplace service providers, and social media sites to do the same to aid the government in pursuing stronger criminal actions against counterfeiters. We also continue to partner with rights owners to assess potential infringement and help drive enforcement through litigation against bad actors.

Similarly, since the beginning of 2015, we have brought lawsuits against over 1,000 defendants for reviews abuse, including both dishonest sellers and manufacturers who attempt to purchase fraudulent reviews, and the parties who provide and post those reviews. Most of the defendants in these lawsuits have cooperated, agreed to pay damages, and provided information allowing us to remove fraudulent reviews and identify other parties who purchase or sell fake reviews.

We have joined global consumer brands in Memorandums of Understanding to share information that will help us collectively protect customers from counterfeit. We routinely engage groups of brands to discuss our brand protection innovations including Brand Registry, Transparency, Project Zero and more, share key performance indicators, and provide feedback and guidance on Amazon's policies. When Amazon receives negative feedback from these engagements about its policies or tools, we use that feedback to improve the policies and tools to address brands' concerns. Amazon places great value on these forums for brands to provide insights and suggested improvements to its tools.

VI. Accelerating our Collective Fight to stop Fakes and Unsafe Products on Behalf of Consumers. Partnerships with other retailers, social media companies, law enforcement, the Executive Branch, and Congress are critical to holding bad actors accountable and driving counterfeits and unsafe products to zero. To strengthen collaboration and cooperation and improve the fight against counterfeits and unsafe products for consumers, Amazon suggests the following additional actions:

Improve bad actor information sharing among stores and other service providers. Amazon supports the creation of a private information exchange that will enable industry participants to better identify and stop bad actors of all types before they can reach consumers. Bad actors are collaborating with each other; we believe industry should find ways to share risk signals to help strengthen each other's defenses.

Enhance criminal prosecution of intellectual property crimes. Amazon supports the Department of Justice prioritizing prosecution of intellectual property crimes in order to deter perpetrators. In 2017, only 0.1% of filed federal criminal cases involved charges for trafficking in counterfeit

goods, and 56% of counterfeiters sentenced that year received no jail time. As a result, there is often little disincentive for bad actors in committing IP crimes. Increased criminal prosecution alone will not solve the problem of counterfeiting, but more funding for law enforcement and more severe penalties for convictions are essential to winning this fight.

Improve information sharing from Customs. Amazon encourages Customs and Border Protection (CBP) to facilitate mutually beneficial partnerships that will help provide increased visibility and transparency into shipments. Specifically, CBP should provide us with identifying information for every counterfeit-based seizure bound for an Amazon fulfillment center. When CBP seizes such packages, there might be similar products from the same bad actor sitting in Amazon's warehouses. Sending a picture of the "FBA number" found on the outside of each such package will help us protect our customers and the intellectual property of rights owners by removing related products and associated bad actors from our stores.

Require sharing of pre-arrival data on all small packages. Amazon supports a Customs requirement that every package imported into the United States provide advance electronic data to CBP to allow better targeting of suspected counterfeits. Currently, no cohesive data tracking system exists for postal shipments, and bad actors from outside the United States are able to hide their identities and avoid detection. Enforcement of these requirements, and the data derived from them, will help law enforcement identify bad actors and allow Amazon to better protect customers and rights owners.

VII. Conclusion.

Amazon is committed to ensuring that only authentic and safe products are offered in our store. We strictly prohibit the sale of counterfeit products, and we require all products in our store to comply with applicable laws, regulations, and Amazon policies. We know this will require continued investments, technological innovation, and – above all – collaboration. Amazon will continue to invest in, invent, and improve the tools needed to protect our customers and selling partners. However, we cannot wage this fight alone, and we welcome the opportunity to work with this Committee and anyone else who is committed to eradicating counterfeits and unsafe products from the retail industry.