

20 August 2021

Australian Competition and Consumer Commission
Digital Platform Services Inquiry

Via email: digitalmonitoring@accc.gov.au

Dear ACCC team

We refer to your issues paper of July 2021 inviting views on potential competition and consumer issues in the provision of general online retail marketplaces to consumers in Australia.

Kathmandu is an international retailer that specialises in outdoor and travel apparel, gear and accessories. Kathmandu has a network of 140 retail stores throughout Australia and New Zealand and operates its own direct to consumer websites in New Zealand, Australia, England and the USA.

Kathmandu currently offers its products for sale to consumers through the following marketplaces in Australia:

- eBay <https://www.ebay.com.au/str/kathmanduofficialstore>
- Catch.com.au <https://www.catch.com.au/brand/kathmandu/>
- amazon.com.au <https://www.amazon.com.au/s?me=AF7O4P7MBT67L&marketplaceID=A39IBJ37TRPIC6>

Some of the key issues/concerns we have experienced with marketplaces are as follows:

1. The platforms can be utilised as mechanism for fraud. In our experience, a third party can easily create a listing using Kathmandu imagery and product descriptions and advertise our products for sale to a consumer at a lower price than we are advertising for sale of the product. Once a consumer has made a purchase, the third party then purchases the goods from Kathmandu's own website using stolen credit card details and uses the consumer's delivery details as the shipping address. Kathmandu then ships the item to fulfil the order direct to the customer (who thinks they are receiving product via the marketplace). Following delivery, Kathmandu receives notification of a credit card chargeback for a fraudulent transaction.
2. Some platforms include a feature along the lines of, "Have one to sell? This encourages a third party to use Kathmandu imagery and product descriptions to create their own listings. This approach does not assist businesses to protect their intellectual property.
3. The platforms do not appear to be interested in ensuring that legitimate sellers are using their platform. For example, while they state that they have procedures to lodge an issue over an infringing listing, very little assistance is given to take down listings of other third parties using our imagery or purporting to sell "new" products. There should be policies/procedures to vet a seller's ability to sell new items (not second-hand products) from registered brands who sell on the marketplace. In our experience, the procedures that are purportedly in place for this do not work effectively.
4. We have also experienced marketplaces discounting our product through offering a marketplace funded coupon/discount code without our knowledge or consent. Our product offered through the marketplace is then at a discount to the price we offer the same product on our own channels.

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If you require any further information, please do not hesitate to contact us.

Yours sincerely,

Kathmandu

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