Staying Ahead of INFORM

Updates, Enforcement, and What's Coming Next

Leonard L. Gordon
Partner | +1 212.370.6252 | lgordon@Venable.com

Justin E. Pierce
Partner | +1 202.344.4442 | jpierce@Venable.com

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Why INFORM matters now (and why enforcement is accelerating)

- INFORM is a transparency-and-traceability regime aimed at counterfeit/stolen/unsafe goods online
- Enforcement authority includes FTC + state AGs; federal involvement expected to rise
- The first major federal case signals regulators' expectations are operational, UX-specific, and audit-driven

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Who is covered? What is an online marketplace?

- A person or business that operates a consumer-directed platform that allows third party sellers to engage in the "sale, purchase, payment, storage, shipping, or delivery of a consumer product in the United States."
- The law takes the meaning of "consumer product" from the Magnuson-Moss Act, which defines the term as "tangible personal property for sale and that is normally used for personal, family, or household purposes."
- The online marketplace also must have a contractual or similar relationship with consumers governing their use of the platform to buy products. Many of the companies that meet the definition of "online marketplace" are national names, but smaller niche platforms with "high-volume third-party sellers" are covered too.

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INFORM “at-a-glance”

who is covered and when duties trigger

- High-volume third-party seller threshold: **200+ discrete transactions and $5,000+ gross revenue in a continuous 12-month period (lookback prior 24 months)**
- Public disclosure trigger for certain sellers: **$20,000+ annual gross revenues on the marketplace**
- Civil penalty exposure: “up to $50,120 per violation” (as described in contemporary commentary)

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Core obligations (marketplace-side) — what regulators will test

- Collect and verify key seller identity and financial info (names, address, tax ID, bank info, contact methods)
- Verification timing expectations (commonly described as within **10 days**)
- Deactivation/suspension pathway if seller fails to comply

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What verification is required?

- Although the law doesn't list specific verification steps, the methods the online marketplace chooses must enable it "to reliably determine that any information and documents provided are valid, corresponding to the seller or an individual acting on the seller's behalf, not misappropriated, and not falsified."
- The law also includes a "presumption of verification" that any information contained in a valid government-issued tax document can be presumed verified as of the date of the document.
- In addition, online marketplaces must keep information from high-volume third-party sellers current. At least once a year, the marketplace must require the seller to electronically certify that its information hasn't changed or that it has provided the marketplace with updated information.

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Consumer-facing disclosure & reporting mechanics (where platforms get caught)

- Clear + conspicuous **reporting mechanism** on product listings for high-volume sellers (electronic + telephonic)
- Clear + conspicuous **seller identity + contact mechanism** for $20k+ sellers (via product listing or specified post-purchase records)

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Marketplace disclosure requirements

- The marketplace must clearly disclose the following information on each of the seller's product listing pages, **or** in order confirmation messages and account transaction histories on that platform:
  - Seller's full name, which may include the business name or the name the seller uses on the online marketplace;
  - physical address; and
  - contact information that will allow consumers to have
    - "direct, unhindered communication" with the seller, including
      - a working phone number,
      - a working email address, or
      - other means of direct electronic messaging that may be provided by the marketplace
        - – as long as that other means doesn't prevent the online marketplace from monitoring communications with consumers for fraud, abuse, or spam.

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Enforcement milestone: FTC/DOJ's first INFORM case (why it's a roadmap)

- DOJ filed on FTC referral; alleged failures: reporting mechanisms and seller identity disclosures not "clear and conspicuous"
- Settlement included **$2M civil penalty** and prescriptive injunctive terms
- Takeaway: "compliance" is judged by *actual user experience across every interface*, not just policy text

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Case study, part 1: “Clear & conspicuous” is a design requirement (not a legal conclusion)

- Allegations that required links were hard to find / required multiple steps; e.g., consumers had to locate a small “Report” link and navigate menus
- Reporting not available across “gamified” shopping experiences until later (alleged)

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Case study, part 2: What the order effectively "requires" platforms to engineer

- Telephonic reporting mechanism must allow consumers to **listen back / re-record / accept** before submitting; instructions must be easy to hear/understand
- Reporting mechanism placement/visibility requirements (top/body placement, stands out, plain language, one-click access, present across each interface/medium)
- Identity disclosure must be accessible (often **≤1 click**) and present across interfaces

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Emerging regulatory expectations (inferred from the first case + guidance)

- “All iterations of your platform” expectation (desktop, mobile web, app, special shopping flows)
- Expect investigators to test: location on page, contrast, label clarity, step count, friction, and consistency
- Audit posture: regulators are moving from “Did you have it?” to “Could a reasonable user find/use it?”

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“What’s coming next”: likely enforcement & audit themes (forward-looking briefing)

- Repeatable themes likely to drive audits:
  - Multi-surface consistency (app vs. mobile web vs. desktop)
  - “Clear and conspicuous” proof (UX testing evidence, click-path mapping, design specs)
  - Operational verification SLAs and refresh controls (timelines; change monitoring)

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Internal controls blueprint (marketplace)

- Governance:
  - Named INFORM owner + cross-functional steering (Legal, Compliance, Product, Trust & Safety, Support)
  - Policy-to-product translation: “requirements matrix” tied to screens and events
- Controls:
  - Platform release gates: INFORM regression tests required before deployment
  - Exception handling: home-based seller partial disclosure workflow (certification capture + review)

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Verification procedures (seller onboarding + ongoing refresh)

- “Collect → verify → monitor changes” life cycle
- Practical verification stack:
  - Identity verification (business entity vs. individual)
  - Address verification + return-address logic (where permitted)
  - Contact verification (working phone/email/message channel)
  - Bank/tax verification (matching seller entity)
- Ongoing monitoring:
  - Trigger events (bank change, address change, abnormal sales velocity, complaint spikes)
  - Time-bound re-verification and seller suspension logic aligned to statutory/guide expectations

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Disclosure engineering: design standards that pass “clear & conspicuous”

- Requirements to translate into UI acceptance criteria:
  - One-click access where required; avoid vague link text
  - Placement rules (top/body, same screen as key product details), contrast/size standards
  - Consistency across every interface and shopping mode
- Deliverables:
  - Annotated wire frames + “compliance UX spec”
  - Screenshot library per surface (desktop/mobile/app/gamified)

Reporting mechanism playbook (electronic + telephonic)

- Reporting UX:
  - “Report suspicious marketplace activity” label (avoid generic “Report”)
  - Reduce steps; track time-to-submit
- Telephonic workflow:
  - Listen-back/re-record/accept controls + accessible instructions
- Operationalization:
  - Triage SLAs, escalation paths, feedback loop into seller risk scoring

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Documentation strategy: “assume you’ll be audited”

- Evidence package checklist:
  - Requirements-to-implementation matrix (statute → control → screen → test → owner)
  - Verification logs + change history
  - UI proof (screenshots + click-path videos + release notes)
  - Complaint intake records and disposition
- Retention posture modeled on order-style recordkeeping:
  - Keep records necessary to demonstrate compliance and consumer complaint handling

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Audit readiness drills (tabletop exercises)

- "Regulator walkthrough" simulation:
  - Test all entry points (search results → listing → checkout → order confirmation → account history)
  - Test all interfaces (desktop, app, mobile web, special shopping modes)
- Sampling plan:
  - High-volume sellers; $20k+ sellers; partial disclosure sellers; new vs. long-tenured sellers
- Remediation sprint model:
  - Severity rubric + rapid UX fixes + verification backlog burn-down

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Seller-side readiness (for third-party sellers on marketplaces)

- What sellers should do now:
  - Keep identity/contact details current; respond promptly to verification requests
  - Prepare documentation to support business address vs. home-based partial disclosure (where applicable)
  - Maintain customer-support responsiveness for consumer inquiries (avoid suspension risk logic described in the statute/order framework)
- “Seller compliance kit” contents:
  - Verified contact channel SOP
  - Address/returns policy + proof files
  - Record of updates submitted to marketplaces

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