

Top Ten Myths around the Marketplace Fairness Act

Myth: eBay opposes the Marketplace Fairness Act

Fact: eBay is opposed to the current definition of a small business in the legislation, which is exponentially less than any other relevant federal standard for defining a small business.

Myth: The Marketplaces Fairness Act would level the playing field between online and offline retailers

Fact: The current bill favors large online and offline retailers. Larger retailers leverage their size to negotiate tax breaks or grants, in addition to the favorable terms they can obtain throughout their supply chains. Unless the bill is amended to include a real small business exemption, it would actually damage the competitiveness of innovative small businesses. eBay believes those very businesses should be empowered to use online tools so they can reach new customers and grow their business.

Myth: The threshold in the Marketplace Fairness Act protects nearly all online sellers.

Fact: The existing bill does not protect small businesses. It protects only casual online sellers, most of who would not be subject to tax collection obligations anyway. eBay believes that more than just casual sellers should be protected, and the small “seller” threshold fails to protect many small businesses that use the Internet from new taxes and burdens.

Myth: The Marketplace Fairness Act solves compliance and cost of compliance problems because it requires that the states purchase and provide software to any business that wants it.

Fact: Software is a not a panacea. There is no software solution to protect a small business from audits and litigation by distant states. For example, under this bill, a small business in Arkansas can be summoned to a California court for audit proceedings. This creates costs and risks that jeopardize a small business’ ability to grow using the Internet.

Myth: eBay is advocating for a \$30 million threshold to define a small business that would be exempt from new sales tax collection responsibilities.

Fact: eBay has advocated for a rulemaking procedure that would empower the Small Business Administration to determine the threshold that accurately reflects a small business. Currently, the SBA’s threshold for when an electronic retailer exceeds the size of a “small business” for their lending programs is \$30 million dollars. eBay is also open to discussing a threshold that includes an employee standard, or is in line with other existing federal or state small business definitions.

Myth: The Marketplace Fairness Act already includes a negotiated small seller threshold.

Fact: The small seller threshold in the Marketplace Fairness Act is no different from the \$1 million threshold that was included in the Marketplace Equity Act in the 112th Congress (H.R. 3179). Additionally, the current exception is far less than the \$5 million thresholds that were included in bills introduced from the 107th to the 110th Congresses.

Myth: Internet retailers do not pay any sales taxes.

Fact: All retailers collect and remit sales taxes when they share “physical presence” (i.e. state of residence) with their buyer. Because many large retailers have a physical connection to every state, they pay sales taxes for purchases over the Internet. For small businesses that are physically far from their customers and are inherently less competitive as a result, this system works. Some large online retailers, however, have worked around state laws to avoid collecting sales taxes and have negotiated exclusive tax deals despite having physical presence.

Myth: There are less than 1,000 retailers that are above the \$1 million dollar threshold.

Fact: This talking point, taken from a private survey, does not accurately reflect the number of small businesses that would be impacted by the Marketplace Fairness Act because it relies on voluntary self-reporting. Small businesses today are multi-channel (using eBay, their own websites, etc.), making it impossible to fully quantify the number of impacted businesses based on any single marketplace or website.

Myth: The online sales tax advantages internet retailers.

Fact: To the contrary - the Internet actually gives small businesses a leg up by opening their doors to a broader consumer base and creating opportunities for growth. Furthermore, small businesses that use the Internet are not the ones jeopardizing offline small businesses. The greatest threat to any small business retailer is its mega-large competitor.

Myth: These “protections” were necessary when the Internet was new and developing. Now that e-commerce is well established there is no reason to protect businesses that use the Internet.

Fact: While the internet as a platform may be established, small businesses rely on the Internet and sites like eBay to grow. Increasing the threshold so that it is a more realistic definition of a small business would comport with various other federal policies designed to help foster and incubate small businesses. There will always be new businesses and small businesses on the Internet, and it will never be the right policy to give them the same sales tax duties of multi-billion dollar retailers.