INTA Comments to the Consultation of " E-Commerce Platform Assistance in Investigating and Handling Trademark Infringement Cases Provisions"

December 12, 2025

The International Trademark Association (INTA) thanks the State Administration of Market Regulation (SAMR) of China for the opportunity to provide comments on behalf of its members in response to the "Provisions of Assistance by E-Commerce Platforms for Enforcement against Trademark Infringement" issued on November 14, 2025.

INTA is a global not-for-profit association of more than 38,000 professionals and 6,600 member organizations from over 182 jurisdictions. INTA is the largest global association of brand owners and professionals dedicated to supporting intellectual property to foster consumer trust, economic growth, and innovation. INTA's members represent a broad cross section of brand owners from major corporations, small- and medium-sized enterprises, law firms, and nonprofits, as well as government agency members, professors, and law students.

The following General and Article specific comments and suggestions were prepared by INTA's Anticounterfeiting Committee and Legislation and Regulation Committee and INTA staff. Our comments aim to support effective implementation while ensuring practicality and alignment with international best practices. We would welcome the opportunity to discuss these issues in depth and to answer any questions. We hope you will find our comments helpful.

General Comments

INTA commends and supports the direction of the draft to set high standards in the fight against online counterfeiting and to enable closer cooperation between stakeholders including law enforcement, online platforms, Rights Owners and legitimate sellers.

From the perspective of rights owners, these additions will positively impact brand protection by improving enforcement efficiency through greater transparency of trader information and stricter supervision.

For e-marketplace operators, the new regulation should drive optimization of platform rules and implementation of quick-reaction mechanisms, reducing infringement cases by increasing legal risks for bad actors. INTA notes that the provisions are focused on e-commerce platforms, however with the growth of social media apps and platforms that have integrated e-commerce capabilities, we would welcome confirmation if the scope of the provisions will also apply to these types of operators.

The proposed new regulation represents an improvement to the existing platform liability rules, further clarifying e-commerce operators' responsibility to maintain a clean online environment and standardize the enforcement process in collaboration with MSB and e-commerce operators. Compared to current regulations, which include Civil Law, e-commerce Law and Measures for the Supervision and Administration of Online Transactions which primarily focusing on platform liability when illicit activity occurs and traders'

obligations, it is welcomed that the new legislation is more specific about measures for MSB to work with e-commerce operators to tackle trademark infringement. These measures are critical for disrupting and investigating complex cases facing Rights Owners today.

We offer the following recommendations to enhance the draft provisions:

- **Expand the scope of protection** to include copyright, design patents, trade dress, and well-known marks to address real-world infringement patterns.
- **Clarify verification obligations** by defining minimum standards for authenticity checks.
- **Adjust timelines** for data provision and feedback to ensure feasibility for global platforms while maintaining enforcement efficiency.
- **Introduce procedural safeguards** for marking stores with false address information and provide appeal rights for accused operators.
- **Define penalties and liability standards** for platforms to ensure consistency and fairness, including explicit safe-harbour language.
- **Enhance measures for high-risk categories** such as pharmaceuticals and medical devices, including stricter verification and faster response times.

INTA lauds the provisions in Article 8 of the draft Regulations which are intended to clarify the local MSB with proper authority to handle a given case that involves multiple jurisdictions in China. For cases where disputes arise, INTA hopes that decisions on jurisdiction will be made quickly, preferably with a fixed deadline (subject to limited extensions where needed).

Furthermore, in accordance with relevant provisions of the PRC Trademark Law, the PRC Criminal Law and relevant judicial interpretations, investigations into online counterfeiting that constitute a possible criminal offence would need to be transferred to local PSBs. As such INTA looks forward clarification on whether special protocols and procedures will be introduced to facilitate cooperation between local PSBs and MSBs.

As with any new legislation, to promote consistency with existing regulatory and judicial frameworks, INTA recommends that aligning the final provisions closely with existing laws and enforcement procedures, particularly regarding evidence standards and cross-region jurisdiction coordination.

Article 2

In today's ecommerce environment, counterfeiters and infringers use and abuse all types of intellectual property in order to sell products. INTA understands that local MSBs have the authority to enforce most forms of Intellectual Property (IP), however the Regulations appear to be currently limited to the protection of trademarks registered in China. Article 2 of the Regulations also suggests an intention to protect geographical indications and other "special marks".

Therefore, INTA would welcome guidance and clarification if other unfair competitive behaviors, including trade dress, famous unregistered marks could be applied.

Furthermore, to ensure enforcement evolves in line with the realities of counterfeiting and online IP infringement, INTA members encourage a holistic approach that, over time, could extend beyond the current focus on registered trademarks. Future guidance might consider broader IP elements such as:

- copyrighted images used in ecommerce listings
- design patents

- unregistered but well-known marks
- trade dress / product configuration
- famous non-registered signs (tabs, stitching patterns, patch shapes, etc.)

Article 3

As defined in INTA's 2023 Board Resolution "*Establishing a Framework for Protecting Consumers from Third-Party Sales of Counterfeit Goods via Online Marketplaces*"[1], INTA supports robust "know your customer" obligations for sellers on e-ecommerce platforms alongside clear platform service agreements and intellectual property protection rules as stated in Article 3. INTA encourages the adoption of clear, enforceable standards for verifying identity, address, contact details, and business credentials of all platform operators to reduce anonymity exploited by infringing entities.

The Board Resolution also recommends that platforms "requir[e] that sellers use images that accurately depict the goods sold on the online marketplace" to prevent consumers being misled. As such INTA would recommend the accurate product information and images fall within the "other information" as defined by Article 3.

INTA members also report that previously reported or suspended traders reopening shops under new identities or accounts remain an ongoing concern. While Article 3 seeks to address this, practical measures such as requiring platforms to maintain an internal blacklist and to cross-check new seller applications against prior violations and linked identifiers (email/phone, bank, address, device) to block re-registration by repeat offenders.

Furthermore, INTA members note there is a challenge for sellers offering other infringing listings on the same platform, but under different seller accounts or listing multiple infringing listings of identical products on the same platform.

These and other seller attribution challenges can be mitigated by robust mandatory upfront seller verification that would require platforms to collect and verify at onboarding:

- true business identity and licenses
- verified bank accounts
- full warehouse/stock locations
- shipping origin points
- supplier/factory information
- related/linked accounts
- logistics partners
- ID documentation

Addressing such challenges at the seller onboarding stage would allow for more comprehensive platform governance and enforcement from the outset.

Article 4

[1] https://www.inta.org/wp-content/uploads/public-files/advocacy/board-resolutions/20231114_Establishing-a-Framework-for-Protecting-Consumers-Final.pdf

INTA has a number of specific comments related to different clauses within Article 4.

- **TIMELINES AND EXTENTIONS:**

INTA notes that the current timeline specified to provide information following a notice from Market Regulation and Administration departments is "**within 15 working days**"; however INTA recommends to avoid absolving the infringing store from liability by changing its registration, it is recommended to shorten it to: "...E-commerce platform operators shall provide the information **within 5 working days** of receiving the notification."

Furthermore, when an extension is needed for providing requested information, the e-commerce platform operator should inform the requesting department **in written form**, such as an official letter or email. This would help maintain a clear and traceable communication record, and ensure accountability.

- **SHARING DATA VIA THE NATIONAL ONLINE TRANSACTION REGULATION PLATFORM:**

INTA understands that online market platforms will be required under Article 4 of the Regulations to forward information requested by local MSBs, and such information should be provided through the National Transaction Supervision Platform.

We look forward to learning more about how SAMR and local MSBs will be collecting and analyzing relevant data, and whether it would be helpful to organize training events for our members to educate relevant authorities on the challenges faced by their brands and their industries.

- **AUTHENTICITY VERIFICATION (VERIFYING SELLER DATA):**

INTA understands that existing regulations already require online transaction platforms to provide enforcement authorities with information such as seller identities, product or service information, payment records, logistics and express delivery details, return/exchange records, and after-sales transaction information. The Draft Regulations build on this framework through Article 4 by imposing an explicit obligation on platforms to verify the authenticity of information they submit during the investigative assistance phase and to take responsibility for its accuracy. If platforms cannot confirm the information, they must explain why; failure to do so constitutes a violation of existing obligations under the Measures for the Supervision and Administration of Online Transactions.

This change responds to a common enforcement challenge: many infringing online stores register false or unreachable business addresses, making it impossible for authorities to locate the operators of these "ghost stores". The Draft Regulations will shift platforms from passive information relays to active participants in verification, while also prohibiting them from disclosing law-enforcement activity to sellers during the verification process.

INTA would welcome clarification on the concept of "authenticity verification". The Draft Regulations provide examples of information that may be requested (e.g., operator location, terminal device location, warehousing sites), but do not define minimum verification requirements. Platforms may still rely on self-reported addresses that they cannot realistically verify, especially where on-site inspection would exceed their capabilities including if the seller is based overseas. This may lead to high compliance burdens and may result in frequent "unable to confirm" responses from the platform thereby reducing the effectiveness of supervision and the Provisions.

Furthermore, verifying certain information, particularly real-time operator location or device location, raises significant privacy concerns and may contravene may breach the principle of minimum necessity for personal information collection. The requirement not to inform or disclose to sellers that data being collected is for enforcement purposes may also place platforms in a legally and ethically difficult position.

INTA also would like to raise concerns on allowing platforms to direct contact sellers for information. Such contact could alert sellers to investigations and give them opportunities to evade enforcement. One potential solution would be to have such decisions of interaction made by the MSBs responsible for the case, and that platforms maintain more comprehensive seller data upfront. Additional data categories including prior violation history, sanctions imposed by platforms, and “cluster search” results linking affiliated seller accounts would also significantly aid proactive enforcement, particularly in identifying organized networks of infringers.

To improve operability and reduce uncertainty, INTA recommends that the Provisions clearly define:

• the specific types and sources of information required,
• the minimum verification standards, and
• the circumstances under which collection of highly sensitive data is justified.

Corresponding oversight mechanisms should ensure proper data handling by enforcement authorities, and merchants should retain access to appeal or judicial remedies where personal information rights are implicated.

Article 5

INTA welcomes the detailed definition and requirements for rights holders to provide preliminary evidence to help prevent frivolous complaints and ensure fair enforcement through the complete systemic framework for the "*Notice of Suspected Trademark Infringement Clues*" alongside clarifying the standards for market regulation authorities when issuing a notice. INTA would recommend clarifying if each of the evidence criteria outlined in Article 5 Clause (ii) and Clause (iv) need to be satisfied, or can be collected individually to support a Notification Clue, since the current draft Provisions suggest an authority working standard level of evidence (as per *Chapter 5 of* the *Interim Provisions on Electronic Data Evidence Collection in Market Regulation and Administration Administrative Enforcement*) rather than a reasonable evidence standard that private industry and rights owners have the resources and capability to collect.

INTA also welcomes that Article 5 of the Regulations requires platforms to notify MSBs within five working days of the measures taken to address infringements to that actions are prompt and swift, thereby safeguarding the legitimate rights and interests of rights holders. According to relevant provisions of the Trademark Law, local market supervision administrations are obligated to transfer cases suspected of constituting crimes to local public security organs. Therefore, E-commerce platforms, in cooperating with market supervision departments in investigations of suspected trademark infringement, should adhere to strict confidentiality principles and should not directly notify operators within the investigated platform until the market supervision department has made a determination to close the case. After completing the investigation, the MSB shall disclose the investigation results and penalty decisions to the rights holder in accordance with the law.

However, we note that Article 5 focuses only on a single complainant brand. In many cases, Rights Owners routinely find the same seller is offering counterfeits of multiple brands, and if sales of all infringed brands are considered, the penalties (including criminal transfers) may be significantly higher.

Therefore, INTA would recommend that Article 5 includes provisions to require MSB and platforms to notify, seek product verification and authentication or invite support from other rights holders when credible indicators show a seller infringes multiple brands. This will enable more consolidated actions and more realistic penalty calibrations. Multi-brand actions dramatically increase deterrence and resource efficiency, however it is challenging for Rights Owners to know if they are being infringed or when there is an opportunity to join public-private joint cases. INTA stands ready to support State Administration of Market Regulation (SAMR) to connect with impacted Rights Owners through its extensive membership network.

In order to maintain provisions to safeguard the rights and interests of the accused infringer, INTA would also recommend that In line with comparable in-platform procedures, the *Draft Regulations* should also consider the possibility of erroneous notifications and grant the accused infringer an opportunity to appeal.

INTA welcomes Article 5 Clause (iii) of the draft Regulations since it will empower MSB to investigate and make determinations of infringement in cases where the marks and/or the goods or services offered by a seller are non-identical. There remains a challenge in current e-commerce enforcement that content removals of such content are blocked with platform operators unwilling to conduct take-downs in such cases, thus requiring that trademark owners seek remedies from the People's Courts with significant impact on time and costs.

Article 6

INTA understands that Article 6 creates a listing notification obligation for e-commerce platforms. Upon receiving a notification from the market regulation authority indicating that a specific store's address information is false, the platform shall not only notify the on-platform operator (seller) to correct the information and cooperate with the market regulation authority's investigation, but also prominently mark the following statement on the relevant store's page and commodity information: "*Upon investigation by the market regulation authority, the on-platform operators' address information is false*."

This requirement that platforms be compelled to adopt specific consumer-facing warning measures through "public marking" constitutes a pioneering legislative attempt. INTA recognizes that consumer awareness and education in anticounterfeiting is essential. This initiative can not only effectively alert consumers to the compliance risks associated with the store, but also urge the involved on-platform operators (sellers) to promptly provide true and accurate information, thereby avoiding the impact of the public notification upon the store's sales volume.

INTA would welcome further consideration how to balance law enforcement efficiency with the protection of the rights and interests of on-platform operators and mitigate against potential harm to legitimate businesses including loss of visitor traffic due to administrative errors or communication delays. Currently, Article 6 only specifies the conditions under which e-commerce platforms shall take action, but does not clarify the specific conditions and procedures for market regulation authorities to issue the "*Notice on Inaccurate Information (such as Address) of Operators on E-Commerce Platforms and Request for Assistance in Investigation*," It also does not provide on-platform operators (sellers) with an opportunity to supplement and correct information or explain their reasons promptly. Once a store is marked as having inaccurate information, it may take several days to revoke the mark. Particularly, since the *Draft Regulations* regulates platform liability during the investigation phase, where trademark infringement has not yet been finally determined, the impact of direct marking may be excessive.

Therefore, INTA recommends introducing a preliminary correction window to allow on-platform operators to make one supplementary correction within a specified time limit alongside an appeal path prior to or in parallel. Meanwhile, the basic conditions for market regulation authorities to issue the "Notice on Inaccurate Information (such as Address) of Operators on E-Commerce Platforms and Request for Assistance in Investigation," as well as the appeal mechanism and remedial measures in case of erroneous determination, should be clearly defined.

In addition, Article 6 of the *Draft Regulations* stipulates the e-commerce platform's obligation to mark stores with inaccurate address information, while the provisions on revoking such marks are contained in the jurisdiction clause (Article 8). Consideration may be given to merging Paragraph 4 of Article 8 with Article 6 to facilitate e-commerce platforms' comprehensive understanding of the marking obligation.

Finally, INTA would recommend the State Administration of Market Regulation (SAMR) continually assess the effectiveness of the consumer-facing notification when the address is inaccurate and if necessary strengthen the measure to include requirements that platforms impose temporarily until verification concludes:

- freeze seller fund withdrawals
- lock key data fields (addresses, bank accounts)
- prevent deletion of listings
- block creation of new, related stores

Article 7

INTA welcomes Article 7 prohibiting sellers from responding to MSB and platform investigations by closing their accounts, thereby helping to prevent the seller from avoiding fines and other MSB sanctions. INTA notes that the draft provisions only restricts voluntary store closure by sellers, however we would recommend extending prohibitions the following major evasion tactics to avoid enforcement commonly experienced by Rights Owners:

- changing store or entity names
- transferring accounts to new owners
- modifying business-license data
- deleting transaction history
- altering or removing warehouse locations

Article 8

INTA welcomes the provisions in Article 8 of the draft Regulations which are intended to clarify the local MSB with proper authority to handle a given case that involves multiple jurisdictions. INTA believes the provisions for case transfer and cooperation among Market Regulation Departments will greatly improve efficiency and reduce enforcement delays.

However, we note that the draft requirement for notifying e-commerce platform operators **within 2 working days** after initiating an investigation may be too short, especially for cross-regional cases.

Therefore, we recommend extending this period to **within 5 working days** to allow sufficient time for confirmation and coordination.

Article 9

INTA welcomes the provisions of Article 9 that leave decisions to impose administrative penalties upon online trade platforms to provincial or a national authority (presumably SAMR itself); however INTA would welcome clarity on what the elements for determining an e-commerce platform's liability for aiding trademark infringement in the context of assisting in investigating trademark infringement cases alongside the specific penalties may be applied for failure to implement the relevant provisions of *Articles 4 to 7*. For example, including but not limited to a) Failure to remove clearly infringing listings, b) No action taken against repeat infringers, c) Allowing known infringers to repeatedly re-register; d) Failure to meet required deadlines under Articles 5, 6 or 8. In addition, clear guidance on what constitutes "providing convenient conditions" for infringement will help ensure fair, balanced, and predictable enforcement.

Specifically, clarity is needed as to whether these penalties will include administrative fines, suspension of platform operations, or mandatory rectification plans, escalating penalties for repeated non-compliance, criminal referrals for platforms that materially facilitate counterfeit operations. This will allow ecommerce operators to understand their responsibilities and to fulfil their obligation of assisting in investigations to implement the requirements of information verification and provision.

INTA also encourages MSBs to guide platforms on responding properly to reports that set out detailed information on the nature and scale of counterfeiting of a particular brand or product category on their platform and/or by particular sellers. For example, where a brand owner or group of brand owners have conducted market surveys indicating that the vast majority of sales of a given product are counterfeit, consideration could be given to requiring the platform to impose more stringent due diligence and/or verification measures before allowing sales thereof.

SPECIAL CONSIDERATIONS

The draft provisions establish a strong framework for enforcement, however INTA suggests that certain areas require additional attention to ensure practical implementation and alignment with global best practices. These considerations address unique challenges such as cross-border data transfers, overseas-seller verification and for high-risk and health critical product categories. Incorporating these measures will help balance effective enforcement with legal compliance, operational feasibility, and strengthened consumer protection.

1. CROSS-BORDER DATA, GDPR, AND OVERSEAS-SELLER VERIFICATION

INTA recommends that Article 4 recognises the challenges of cross-border data transfers and overseas seller verification where this applies for e-commerce platforms operating in China. Platforms should be permitted to use alternative verification methods for overseas sellers, and authorities should accept "unable to confirm" responses where reasonable efforts have been made. Data transfers should comply with international privacy standards (e.g., GDPR), and platforms should be provided with clear guidance on lawful data transfer mechanisms. Tiered timelines and a risk based approach are advised for complex cross-border cases.

2. COMMENTS FOR HIGH-RISK PRODUCTS AND INDUSTRIES

Due to the risk to human and animal health through counterfeit pharmaceuticals, medical devices, and other regulated healthcare products including supplements and vitamins INTA recommends the following measures to complement the Draft provisions:

- **Enhanced Verification for High-Risk Categories like pharma goods**

INTA would welcome establishing a differentiated verification mechanism for operators dealing in prescription pharmaceuticals, medical devices, and other regulated healthcare products including supplements and vitamins. Given the safety implications of counterfeit or diverted medical products, platforms should be required to conduct stricter identity, licensing, and product-source verification before allowing listings in these categories.

- **Stronger Obligations for Seller License Validation**

Especially for categories involving prescription drugs and medical devices, platforms should verify business registration information as well as the validity of key regulatory approvals (e.g., manufacturer authorizations, medical device registration certificates, manufacturing/distribution licenses). Where possible, real-time linkage with China's national regulatory databases would significantly reduce risks associated with unlicensed sales.

- **Faster Response Time for Health-Sensitive Violations**

Pharmaceutical industry representatives propose a shorter mandatory response window such as 48–72 hours for e-commerce platform action when suspected infringement involves prescription drugs or Class II/III medical devices. These categories carry heightened patient-safety risks, and expedited handling is essential to prevent public health harm.

- **Mandatory Removal for Unverified or False Address Information**

For operators selling pharmaceuticals or medical devices, if address or identity information is found to be false, platforms should be required not only to mark the store, but also to suspend sales of regulated healthcare products until re-verification is completed.

- **Data-Sharing to Support Traceability and Enforcement**

INTA welcomes the requirement for platforms to provide transaction, logistics, and warehouse location information that will greatly support legitimate supply chains. We recommend that, for drugs and devices, platforms be required to maintain high-resolution traceability records (batch numbers, shipment details, product sources) and provide these to authorities upon request to support rapid investigation and recall actions.

- **Early Warning and Risk-Flagging Mechanisms should also be in place**

INTA understands that detection of prohibited and controlled goods is currently a priority for online platforms, however platforms should be encouraged to implement automated detection systems to flag abnormal listing patterns, improper use of healthcare trademarks, or sudden spikes in sales of prescription drugs or medical devices from newly registered sellers that can indicate red flags or unusual seller behaviour. These early detection mechanisms would help prevent widespread distribution of harmful counterfeit pharmaceutical and medical goods.

- **Clear Liability for Platforms That Enable High-Risk Health Infringements**

The representatives from pharma industry support the introduction of platform liability when they fail to meet obligations under the draft. Given the severe public health risks associated with falsified or counterfeit medical products, we recommend explicit clarification that platforms enabling such activity may face strengthened administrative action.

INTA appreciates your consideration of its comments and would like to thank the State Administration of Market Regulation (SAMR) of China again for the opportunity. If you have any questions or concerns, please do not hesitate to contact INTA's Director of Anti-counterfeiting, Alastair Gray at agray@inta.org or Chief Representative of China, Monica Su at msu@inta.org.