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## **Hatch Opening Statement at Finance Hearing on Protecting E-commerce Consumers from Counterfeits**

**WASHINGTON** – Finance Committee Chairman Orrin Hatch (R-Utah) delivered the following opening statement at a Finance Committee hearing entitled, “Protecting E-commerce Consumers from Counterfeits.”

*I'd like to welcome everyone here today. During this hearing, we will discuss counterfeiting in e-commerce and what steps we can take to protect consumers.*

*Before we get to that though, I'd like to make an important point about the president's proposed tariffs on steel and aluminum.*

*Let's set aside, just for a moment, all of the legitimate concerns about trade wars, the failure to target the source of steel and aluminum overcapacity, and the disproportionate effects on our major trading partners and allies. In the end, these tariffs are not a tax on foreign steel and aluminum producers, but rather a tax on American citizens and businesses, who, if this action is finalized, will be forced to pay an additional 25 percent on steel and 10 percent on aluminum.*

*Those effects would blunt the benefits of tax reform for all Americans—including the reduced impact of the billions of dollars that many companies recently pledged to invest here in America.*

*And those billions would not be as valuable. Truly, there is a better way to address China's actions than to impose a new, across-the-board tax on U.S. consumers and businesses just three short months after we passed comprehensive tax reform. We can and should do better. And I will be sending the president a letter later today emphasizing just that.*

*Now, I'd like to turn to the important issues we want to address in this hearing.*

*It's no secret that I have long felt that strong protections for intellectual property rights protect consumers. A properly enforced trademark, for example, lets a customer know who made a product and where to go for information about it.*

*We were all encouraged by the new authorities the Trade Facilitation and Trade Enforcement Act of 2015, granted the U.S. Customs and Border Protection as well as Immigration and Customs Enforcement. Those authorities, along with the new National Intellectual Property Center, were designed help agencies collaborate, coordinate, and take down perpetrators.*

*Because there are frequently hiccups with the implementation of new laws, the committee asked the Government Accountability Office to conduct a broad investigation about how the Trade Facilitation and Trade Enforcement Act was being implemented.*

*As they started their investigation, GAO quickly began to realize that e-commerce, generally, was causing major issues for CBP and ICE. Due to advancements in online purchasing, the agencies were being forced to adopt new tactics, work more closely together, and build up their public-private partnerships.*

*Those have all been changes for the good. However, we asked GAO to continue their investigation and to look specifically at the problem of counterfeits on some of the most prominent e-commerce platforms.*

*As part of this process, GAO made purchases from five major e-commerce platforms. And, after using relatively narrow criteria, GAO received at least one counterfeit and one legitimate good from each of the platforms. In the end, 20 of the 47 individual items they purchased were counterfeit.*

*While the sample size was small, the results are still telling. On the whole, this investigation started us down a path of discovery, and on that path we noticed there are far more issues than we had initially anticipated.*

*Today's hearing represents a culmination of those initial findings. And while we are not going to be able to fix this all at once, I am hoping to at least discuss some meaningful steps that we could take in the near term.*

*But, before we get to that, I want to talk a little bit more about what we found. As part of its research, GAO found that many counterfeit products create a hazard to consumers, children, and our economy. Through seizures and later investigations, CBP, ICE, and CPSC have found numerous instances of counterfeit products with major health and safety issues. These issues have included contact lenses that contain dangerous bacteria, cosmetics that have chemicals that can cause harmful health effects when applied, phone chargers with faulty wiring, batteries with thermal runoff issues, and even defective airbags.*

*GAO has found that with the rise of popular online marketplaces, counterfeiters have greater access to the market and can easily sell their phony products directly to consumers.*

*Because the counterfeiters frequently use stock photos, or simply join in on a pre-listed product, the goods are sold as genuine, and so long as counterfeiters can make the products indistinguishable on the outside, most consumers never notice a difference. This is because typical red flags for consumers are difficult to notice. This is even true when the counterfeiters create new colors or designs of more famous products.*

*In one recent instance, the U.S. Attorney's office in the Northern District of Mississippi successfully prosecuted a case against Bobby Rodgers, Jr.*

*Mr. Rodgers' had a fairly elaborate scheme in place. First, he would order counterfeit merchandise from China and facilitate delivery by using alternate addresses. Then, he would powder-coat the counterfeit items he received and sell them as a third-party retailer online. As he did this, he would represent the goods as authentic, sometimes even with licensed modifications.*

*The sheer volume of his scams was staggering. On just one of the two major platforms he used, Mr. Rodgers had sold over \$300,000 in counterfeit goods. When his complex was raided authorities seized another 2,200 pieces of counterfeit drinkware.*

*But it doesn't end there.*

*Later, as the CPSC lab reports came back, several of the colors tested positively for lead, exceeding the amount legally allowed by more than 20 times. For all we know, there are currently children around the country sipping water with dangerously high levels of lead because of Mr. Rodgers.*

*Sadly, he is just one among many, many perpetrators buying counterfeits and facilitating sales of them through e-commerce platforms.*

*We've heard from some rights holders, like YETI, whose products have been counterfeited in these schemes, who have responded strongly to address these problems.*

*YETI issued a statement making it clear that they were expending "significant resources to protect [their] consumers." I ask unanimous consent that the full YETI statement, as well similar statements submitted by other rights holders, be entered into the appropriate place in the hearing record.*

*Now, I don't want to steal too much of their thunder, but one of the reasons we've invited Underwriters Laboratories, or UL, here today is to let them give us a broader perspective on the seriousness of these issues.*

*As just one example, in a public report, UL recently tested 400 counterfeit Apple Phone Adapters, out of those 400 they found that only 3 out of the 400 chargers passed electricity strength tests. And that is just one of the many studies UL has performed.*

*I think everyone here – both members and the audience – will be stunned by not only the breadth of products being counterfeited, but also by the incredible volume. This goes beyond the dollars and cents these companies have invested to develop and market their products, which, let's be clear, is enormously important for our economy, not to mention the well-being of American consumers.*

*But we're not just talking about devalued investments. We're talking about lead on children's drinkware, phones catching fire, homes burning down, consumers being injured from hygiene and cosmetic products, airbags not inflating properly, and who knows what else.*

*It is my hope that we all can all agree today that counterfeit products pose an immediate and significant risk to Americans' health and safety. And I hope that we can take GAO's recommendations seriously to improve information sharing and better track CBP's intellectual property enforcement methods.*

*Personally, I am interested in talking specifically about sharing e-commerce platform data contained in invoices and on packages with rights holders, as well as learning from and improving CBP's voluntary abandonment program.*

*American consumers are relying on us to get this right, and we need to work together and with the appropriate officers at CBP, ICE, and other agencies to make sure we do.*

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