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DIVISION 3. OBLIGATIONS [1427 - 3273.69] (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.)*

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69] (*Part 4 enacted 1872.)*

TITLE 1.4C. Clarity of Marketplace Terms and Conditions and Dispute Resolution Minimum Fairness [1749.7- 1749.7.] (*Title 1.4C added by Stats. 2019, Ch. 635, Sec. 1.)*

1749.7. (a) Every marketplace shall ensure that their terms and conditions regarding commercial relationships with marketplace sellers meet all of the following requirements:

(1) Are drafted in plain and intelligible language.

(2) Are easily available online for marketplace sellers at all stages of their commercial relationship with the marketplace, including, but not limited to, during the stage prior to the formation of a contract.

(3) Set out the grounds for decisions to retain, or refuse to disburse, funds in its possession belonging to a marketplace seller pending investigation or resolution of a dispute between the marketplace and the marketplace seller and the grounds for suspending or terminating a marketplace seller from participating in the marketplace.

(b) If a marketplace permits a marketplace seller to pay the marketplace to influence search results through ranking or preferential placement within the marketplace of tangible personal property or services sold by marketplace sellers through the marketplace, the marketplace, in its terms and conditions or policies, shall describe those possibilities and the effects of such payment on the ranking or preferential placement, and either (1) the price of that ranking or preferential placement or (2) how a marketplace seller may obtain written price information for such ranking or preferential placement.

(c) If a marketplace decides to suspend or terminate a marketplace seller based upon an alleged violation of law or a term, condition, or policy of the marketplace, the marketplace shall provide the marketplace seller, without undue delay, with a written statement of reasons for that decision. The written statement of reasons shall, at a minimum, do all of the following:

(1) Without disclosing information that would result in the disclosure of any proprietary, confidential, or trade secret information, or disclosing information that would hinder any investigation or prevention of deceptive, fraudulent, or illegal activity, describe the facts and circumstances that led to the decision unless the marketplace reasonably believes that giving a written statement of reasons could negatively impact the safety or property of another user or the marketplace itself.

(2) Identify the term, condition, or policy that serves as the basis for the suspension or termination.

(3) Explain whether or not the decision may be appealed, and, if so, the procedure for such an appeal.

(d) For purposes of this section, the following definitions shall apply:

(1) "Marketplace" means a physical or electronic place, including, but not limited to, a store, booth, internet website, catalog, television or radio broadcast, or a dedicated sales software application, that sells or offers for retail sale services or tangible personal property for delivery in this state and has an agreement with a marketplace seller to make retail sales of services or tangible personal property through that marketplace, regardless of whether the tangible personal property or the marketplace has a physical presence in the state.

(2) "Marketplace seller" means a person residing in the state who has an agreement with a marketplace and makes retail sales of services or tangible personal property through a marketplace owned, operated, or controlled by that marketplace.

(3) "Ranking" means the relative prominence given to the tangible personal property or services offered to consumers through a marketplace, as organized or communicated to those consumers by the marketplace, irrespective of the technological means used for that organization or communication.

(Added by Stats. 2019, Ch. 635, Sec. 1. (AB 1790) Effective January 1, 2020.)