



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

VIA ELECTRONIC MAIL

Scott Schenkel
Interim CEO
eBay, Inc.
2025 Hamilton Avenue
San Jose, CA 95125

Mike Carson
Director, Global Policy and Regulatory Management
eBay, Inc.
2025 Hamilton Ave.
San Jose, CA 95125

Re: Advisory Letter

Dear Mr. Schenkel:

The U.S. Environmental Protection Agency (EPA or “the Agency”) is issuing this Advisory Letter after a review of your company’s website, www.eBay.com. This letter is being sent to you and other companies operating web platforms that may be facilitating the unlawful distribution and sale of pesticide products that are not registered with EPA and/or are marketed with false or misleading claims of efficacy against the 2019 novel coronavirus, also known as SARS-CoV-2, the virus that causes COVID-19. As you may be aware, EPA is working to ensure that only safe, effective and approved products are available for sale to the U.S. public in collaboration with industry and federal partners.¹

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA or “the Act”), 7 U.S.C. §§ 136 to 136y² and its implementing regulations³ are the primary federal laws governing the production, sale, distribution, and use of pesticide products in the United States. FIFRA prohibits the distribution or sale of any pesticide in the United States that is not registered with EPA and/or makes false or misleading claims. FIFRA defines “pesticide”⁴ as any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating pests, such as bacteria, viruses and other microorganisms, and includes public health products that control these pests, such as disinfectants and antimicrobial products. In addition, FIFRA broadly defines the term “to distribute or sell” to mean “to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.”

¹ News Release. “Administrator Wheeler Talks with Retailers and Third-Party Marketplace Platforms to Discuss Steps to Protect American Consumers from Fraudulent Coronavirus Disinfectant Claims” (Apr. 3, 2020) retrieved at: www.epa.gov/newsreleases/epa-administrator-wheeler-talks-retailers-and-third-party-marketplace-platforms-discuss.

² For more information on FIFRA, visit: <http://www.epa.gov/laws-regulations/summary-federal-insecticide-fungicide-and-rodenticide-act>.

³ 40 C.F.R. Chapter 1, Subchapter E, Parts 150-180, Pesticide Programs.

⁴ For a list of common types of pesticides regulated by FIFRA, please visit: <http://www.epa.gov/ingredients-used-pesticide-products/types-pesticide-ingredients>

Please be advised of disinfectants and other antimicrobial products that may be offered for sale on your online platform that are unregistered and/or that make false or misleading claims to control, mitigate, or protect against the novel coronavirus SARS-CoV-2. Disinfectants and other antimicrobial products claiming to control, prevent, destroy, repel, or mitigate SARS-CoV-2 are pesticides regulated under FIFRA that must be registered by EPA and cannot make false or misleading claims. No person may distribute or sell a pesticide product in the United States making claims that it will kill any virus, *unless* that product is registered by EPA and that particular claim has been deemed acceptable by the Agency. Only the EPA-registered products on the Agency's published list, called "List N", have been approved for use against the novel coronavirus.⁵ Consequently, products offered for sale on your online platform may be prohibited from distribution or sale in the United States. It is vitally important that the public be protected from pesticidal products that do not comply with FIFRA, which, among other things, ensures the safety and efficacy of these products. Accordingly, your company's activities related to your online platforms must comply with FIFRA to ensure protection of public health. We advise you to promptly inform those sellers using your platforms that pesticides distributed or sold in the United States must be registered with EPA under FIFRA and should comply with the Act.

Nothing in this Advisory Letter shall limit or preclude EPA from assessing penalties or taking any other action authorized under FIFRA. EPA reserves the right to bring an action seeking penalties and/or other relief for any FIFRA violation.

If you have any questions concerning this Advisory Letter, please contact Matt Salazar, Manager in the Toxics Section of the Enforcement and Compliance Assurance Division, at (415) 972-3982 or at Salazar.Matt@epa.gov.

Sincerely,

Amy C. Miller
Director
Enforcement & Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX

⁵ List N: <http://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2>.