



Catch.com.au Pty Limited

Initial submission to ACCC Digital  
Platform Services Inquiry on General  
Online Retail Marketplaces

24 August 2021

## 1 Executive summary

This submission is made by Catch.com.au Pty Ltd (**Catch**) in response to the ACCC issues paper regarding general online retail marketplaces (described as **marketplaces** in this submission) dated 22 July 2021 (**Issues Paper**). Catch operates the online retail and marketplace platform, *Catch.com.au*.

Catch is grateful for the opportunity to make a submission for the ACCC's consideration.

Marketplaces operate within a wider retail ecosystem, with competition taking place between bricks-and-mortar retailers, hybrid operations that have both a bricks-and-mortar and online presence, solely online retailers and marketplaces.

Catch agrees with the ACCC that marketplaces provide many benefits to customers and third-party sellers (described as **sellers** in this submission).<sup>1</sup> As well as increasing competition in broader retail markets, marketplaces allow customers to search for, review and purchase a wider range of products in one place at a broad range of price points and allow sellers to reach larger numbers of prospective customers with little investment, thereby keeping prices competitive.

As consumer acceptance of both online shopping and marketplace retailing has grown in Australia, substantial investment has occurred in marketplaces and competition in the supply of marketplaces has intensified. Since the launch of its marketplace in 2017,<sup>2</sup> Catch's overall business has grown quickly and today offers over two million products from over 1,900 local and international sellers to an audience of around 3 million active customers. As well as competition from other retail channels, Catch's marketplace competes head-to-head with at least nine general online marketplaces, including at least six with Australian operations, such as the leading global players Amazon and eBay and local operators, such as Kogan.

The two-sided nature of marketplaces, and the associated network effects, strongly incentivise Catch to compete vigorously for both customers and sellers, and to treat both stakeholder groups fairly.

Providing positive and seamless customer experiences is essential to Catch's ability to drive repeat visits to its websites and apps, which in turn affects the attractiveness of its platform to sellers. While marketplace transactions occur between sellers and customers, Catch recognises the role it plays in ensuring the safety of products sold by sellers on Catch's platform and the accuracy of information provided to customers; in dealing with complaints and faulty or defective products; and in assisting to resolve disputes between sellers and customers – and that its success in that role is a key determinant of the success of its marketplace. As such, Catch continually invests in its customer service functions, has implemented robust processes for the vetting and checking of products, product information and reviews, and offers simple-to-use communications tools to enable sellers and customers to resolve disputes swiftly. Catch also provides clear and easily accessible explanations about the purposes for which it collects, stores and uses customers' data.

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<sup>1</sup> Issues Paper, page 2. See also ACCC press release [Competition, consumer issues in general online marketplaces to be examined](#) (22 July 2021).

<sup>2</sup> Referred to as **Catch Marketplace** in this submission.

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Catch's commitment to product safety is demonstrated by it being a founding signatory to the Australian Product Safety Pledge (**Pledge**)<sup>3</sup> and through its ongoing engagement with the ACCC on product safety issues.

The more sellers that list products on Catch Marketplace, the more attractive the marketplace will be to customers and the more revenue Catch will generate through commission fees on marketplace sales and 'first-party' sales of its own products. As such, it is imperative that Catch maintains positive and constructive relationships with sellers, who are critical to the success of Catch Marketplace. To achieve this, Catch has simple eligibility criteria, provides simple rules for sellers to follow (in relation to product descriptions, display and removal) and offers helpful guidance and information to assist sellers to maximise their sales and supply products safely. Catch also provides a range of opportunities for sellers to participate in mixed events and promotions.

Marketplaces are a complex business model involving a large number of stakeholders, and Catch recognises that its policies and processes must continually evolve in line with customer and business expectations.

Following the structure of the Issues Paper, the balance of this submission is structured as follows:

- Part 2 provides a brief history and overview of Catch;
- Part 3 considers factors that influence competition within the Australian online retail market and discusses recent trends in the supply of marketplaces;
- Part 4 examines the relationship between the Catch Marketplace and customers;
- Part 5 considers the relationship between the Catch Marketplace and sellers; and
- Part 6 discusses Catch's collection, storage and use of customer and seller data.

### 1.1 Confidentiality

Information in this submission identified in **green** highlighting is confidential and commercially sensitive to Catch, its parent company, Wesfarmers Limited (**Wesfarmers**) and/or their affiliates (as the case may be). Catch requests confidential treatment of that information consistent with section 95ZN of the *Competition and Consumer Act 2010* (Cth) and that the ACCC takes all reasonable steps to ensure that the information is not disclosed to any third party. Disclosure of the information would damage the competitive position of Catch, Wesfarmers or their affiliates and is not necessary in the public interest.

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<sup>3</sup> Australian Product Safety Pledge, 29 April 2021.

## 2. Catch

### 2.1 History and overview

Catch was founded in Melbourne in 2006 by brothers Gabby and Hezi Leibovich. It initially resold general merchandise inventory sourced from third-party suppliers through eBay. Later in 2006, Catch launched *Catchoftheday.com.au* and pioneered the “daily deals” online retail model in Australia by promoting a small number of heavily discounted items to prompt customers to return regularly to the site. Catch launched its mobile app on iOS in 2014 and Android in 2015. In March 2017, Catch launched its marketplace offer and began displaying goods from third-party sellers on its platform.

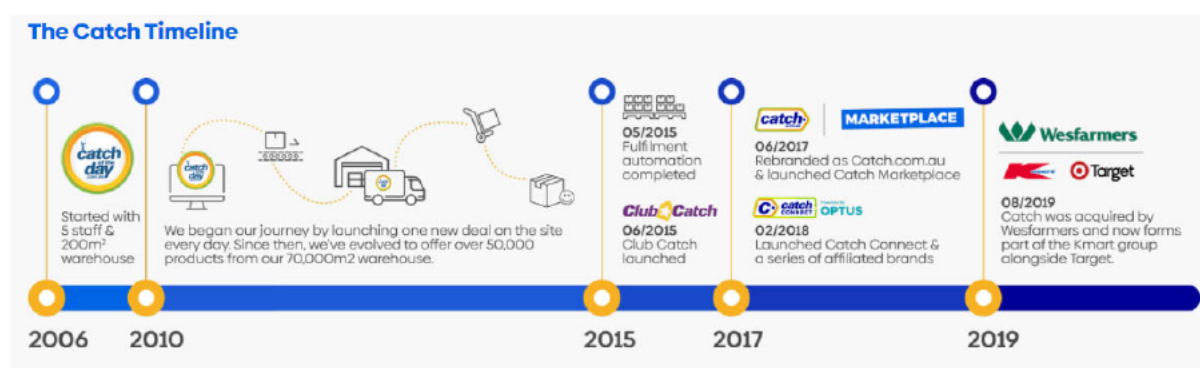
In August 2019, Catch was acquired by Wesfarmers. Within Wesfarmers, Catch is part of the Kmart Group of businesses, which comprises Kmart, Target and Catch.

Today, Catch has grown organically to become a successful and recognised retailer, and a leading Australian technology business. Through the *Catch.com.au* website and mobile apps available on the Apple Store and Google Play Store, it has around 3 million active customers<sup>4</sup> who place an average of 25,000 orders a day. Catch also employs approximately 630 staff across its Melbourne head office and two distribution centres, and has plans to open a new distribution centre in Sydney in early 2022.

Catch also offers the Club Catch subscription service. Club Catch members receive free shipping (for eligible products from Catch or participating sellers), exclusive deals on selected products and two Flybuys points for every dollar spent. Membership of Club Catch costs \$6.50<sup>5</sup> per month or \$69 per year. There are currently approximately [REDACTED] Club Catch members.<sup>6</sup>

Catch also offers ‘Catch Connect’ SIM-only mobile plans, launched in 2018 and operated through a white-label arrangement with Optus. Finally, Catch operates a New Zealand website, *Catch.co.nz*. *Catch.co.nz* is not a marketplace and all products sold through the website are dispatched directly from Catch’s Melbourne distribution centres.

Figure 1 – Catch’s growth journey



<sup>4</sup> Active customer refers to a unique customer who has made at least a single purchase in the last 12 months.

<sup>5</sup> Currency figures in this submission are in Australian dollars, unless otherwise stated.

<sup>6</sup> Includes free trial members.

Catch's core retail business comprises two parts:

- **First-party or “in-stock” retail**<sup>7</sup> – a branded apparel and general merchandise offer of over 70,000 stock keeping units (**SKUs**) across 12 broad product categories. In-stock orders are fulfilled (i.e. picked, packed and dispatched) by Catch from its distribution centres in Melbourne.
- **Catch Marketplace** – a marketplace offering over two million SKUs supplied by over 1,900 third-party sellers. Marketplace orders are generally shipped directly by the seller to the buyer.

## 2.2 Catch Marketplace

Catch Marketplace allows sellers to offer goods directly to customers on the Catch platform. Catch Marketplace was conceived as a way to expand the breadth and range of products that Catch could offer customers in a way that could not be achieved through its in-stock retail model. The launch of Catch Marketplace was also a competitive response to the expected entry of Amazon and other international marketplaces into the Australian retail industry.

Sellers on Catch Marketplace range from well-known bricks-and-mortar retailers and large dedicated, marketplace-only sellers to small businesses.

The Catch Marketplace and Catch's in-stock business are operated as separate internal divisions within Catch as they are based on separate business models. The Catch Marketplace division has:

- a team of Business Development Managers (**BDMs**), who each manage a specific product category with responsibility for seeking out new sellers and managing relationships with existing sellers;
- Account Managers, who manage existing relationships with larger sellers;
- a dedicated Seller Experience team, which engages with sellers on both sales performance and compliance with Catch's policies, to improve both seller and customer experiences; and
- a dedicated Quality Assurance team, which conducts product category curation both before and after products are listed to ensure product listings are compliant with Catch's eligibility criteria (discussed in section 5.1).

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<sup>7</sup> Catch refers to this part of its business as **in-stock** in this submission.

## **3 Competition in retail and among marketplaces**

### **3.1 Retail competition in Australia**

Catch agrees with the ACCC's comment in the Issues Paper that marketplaces compete against each other, as well as other online and bricks-and-mortar businesses, in attracting both sellers and customers.<sup>8</sup>

The Australian retail industry is highly competitive and, in addition to the marketplaces active in Australia, Catch regards its competitor set as including:

- Australian retailers that operate solely from bricks-and-mortar premises;
- Australian and international retailers that operate solely online (with or without a marketplace offering), such as ASOS, The Iconic, Stylerunner and Showpo;
- Australian and international retailers that operate a hybrid online and bricks-and-mortar model (sometimes called "clicks-and-mortar" retailers), including Zara, H&M, Myer, David Jones, Harvey Norman, JB HiFi, The Good Guys, Kmart, Big W, Target, Coles, Woolworths, Chemist Warehouse, Rebel Sport, BCF and others;
- online classified services (such as eBay's affiliate Gumtree and Facebook Marketplace);
- online comparison or referral shopping services (such as Google Shopping, GetPrice, PriceMe, and MyShopping.com.au); and
- for some products, online and offline retailers of specialised goods, such as furniture, or certain types of clothing (like Temple & Webster and Surf Stitch).

From a customer's perspective, marketplaces are direct alternatives to all other retail channels. Customers may also conduct their product search and compare prices in one channel, and then make a purchase in another.

As a result, general online marketplaces are competitively constrained by retailers in all of the channels identified above. In this important context, Catch submits that the focus of the ACCC's inquiry on marketplaces presents a significant risk of an artificially narrow view being taken of the relevant market/s. In particular, Catch considers that it would be inappropriate to form views on competition between marketplaces without taking account of the direct competitive constraint imposed by all other channels within the retail industry.

### **3.2 Supply of marketplaces**

Within the broader retail industry in Australia, competition among marketplaces is intense.

When Catch Marketplace was launched in 2017, the only other significant marketplace competitors in Australia were eBay, Amazon's US marketplace (which, prior to launching its Australian business, was still estimated to make sales of between \$500-700 million in Australia in 2016<sup>9</sup>) and Fishpond.com.au.

The marketplace landscape has changed considerably in the four years since Catch entered, with new domestic entry as well as increased competition from wholly overseas-based platforms.

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<sup>8</sup> Issues Paper, page 8.

<sup>9</sup> See <https://www.merloncapital.com.au/wp-content/uploads/1706-Amazon-not-introducing-internet-to-Australia.pdf>.

Catch's main rivals operating marketplaces now include eBay, Amazon, Kogan, MyDeal.com.au, OzSale/Mysale, AliExpress, Wish and Fishpond.com.au. In addition to the marketplace players identified by the Issues Paper, other significant marketplace competitors include the following:

- **AliExpress**, owned by Chinese multinational Alibaba Group, recorded revenues of around US\$72 billion in FY2021.<sup>10</sup> Alibaba Group established an Australian headquarters in Melbourne in February 2017.<sup>11</sup> Worldwide, AliExpress has over 150 million customers,<sup>12</sup> a product range of more than 100 million products<sup>13</sup> and 443 million monthly unique visitors.<sup>14</sup>
- **Wish** has over 500 million registered users worldwide,<sup>15</sup> recorded an increase in worldwide revenue of 34% (to US\$2.5 billion) in 2020,<sup>16</sup> and had an average of 107 million monthly users in 2020.<sup>17</sup> It has a product range of over 300 million products.<sup>18</sup>
- **MyDeal.com.au** recorded an increase in gross sales by 111.1% to \$218.1 million for FY2021.<sup>19</sup> It also grew its customer base by 83.1% to 894,225 customers in that period.<sup>20</sup> MyDeal.com.au's marketplace has a product range of over 300,000 products<sup>21</sup> and 4.5 million monthly unique visitors.<sup>22</sup>
- **Fishpond.com.au** launched in Australia in January 2004, has a range of over 25 million products<sup>23</sup> and has more than 600,000 monthly unique visitors.<sup>24</sup> Fishpond.com.au reported that it completed a product sale every 1.2 seconds in the past 12 months.<sup>25</sup>
- **MySale Marketplace** is owned by UK-based MySale Group. It has 12 websites in five jurisdictions, sells 700,000 products and has more than 100,000 unique monthly visits to its marketplace.<sup>26</sup>
- **The Myer Market** launched in December 2017.<sup>27</sup> Myer recently proposed that The Myer Market be migrated to its online store, *myer.com.au*, to bolster convenience.<sup>28</sup>
- **Gray's.com** sells more than 120,000 products each month<sup>29</sup> and has 2.25 million monthly unique visitors.<sup>30</sup>

While not yet launched, based on recent announcements, Click Frenzy and Woolworths appear likely to become marketplace competitors in the near future.<sup>31</sup>

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<sup>10</sup> Alibaba Group, [FY 2021 Annual Report](#).

<sup>11</sup> See <https://www.abc.net.au/news/2017-02-05/alibaba-china-online-retail-giant-comes-to-melbourne/8242160>.

<sup>12</sup> Alibaba Group, [FY 2021 Annual Report](#).

<sup>13</sup> C Ferreira, [The Dropshipper's Guide to Sourcing From AliExpress](#), *Shopify*, 3 January 2021.

<sup>14</sup> Similar Web, [Traffic Overview](#).

<sup>15</sup> D Curry, [Wish Revenue and Usage Statistics \(2021\)](#), *Business of Apps*, 7 May 2021.

<sup>16</sup> Wish, [Investor Relations Overview](#).

<sup>17</sup> Wish, [Investor Relations Overview](#).

<sup>18</sup> D Curry, [Wish Revenue and Usage Statistics \(2021\)](#), *Business of Apps*, 7 May 2021.

<sup>19</sup> MyDeal.com.au, [Trading Update For Year Ended 30 June 2021](#).

<sup>20</sup> MyDeal.com.au, [Trading Update For Year Ended 30 June 2021](#).

<sup>21</sup> MyDeal.com.au, [About Us](#).

<sup>22</sup> Similar Web, [Traffic Overview](#).

<sup>23</sup> Fishpond.com.au, [About Us](#).

<sup>24</sup> Similar Web, [Traffic Overview](#).

<sup>25</sup> Fishpond, [About Us](#).

<sup>26</sup> Similar Web, [Traffic Overview](#).

<sup>27</sup> S Marsh, [Myer launches 'Myer Market' in defence against Amazon tidal wave](#), *9 News Online*, 6 December 2017.

<sup>28</sup> Myer, [Full Year 2020 Results](#).

<sup>29</sup> LinkedIn, [Grays](#).

<sup>30</sup> Similar Web, [Traffic Overview](#).

<sup>31</sup> See Click Frenzy: <https://powerretail.com.au/news/its-time-click-frenzy-launches-marketplace-frenz-central/>; and Woolworths: <https://insideretail.com.au/business/woolworths-launching-marketplace-offer-invests-in-marketplace-202104>.

Although there is limited market data available, Catch agrees with the ACCC's assessment that eBay is currently the largest marketplace in Australia by gross sales, followed by Amazon, Kogan and Catch.<sup>32</sup> Catch also agrees with the ACCC's assessment that no particular marketplace currently holds a position in Australia equivalent to Amazon's position in a number of other jurisdictions.<sup>33</sup> In Catch's experience, and based on its communications with its sellers, no single marketplace is currently considered a 'must have' or 'essential' platform for sellers. Rather, there is strong competition among marketplaces having regard to the following factors:

- there are several well-established marketplaces, as well as international marketplaces that customers can readily access online;
- there have been several new entrants in recent years (see further section 3.4);
- it is common for both users and sellers to utilise several platforms (i.e. "multi-home"), reducing barriers to switching, entry and expansion;
- marketplace offers are developing and there is substantial innovation and differentiation;
- many competing marketplaces (including Catch, eBay, Amazon, Kogan, Wish, MyDeal.com.au and AliExpress) have associated subscription or membership programs intended to drive repeat customer engagement and loyalty; and
- because marketplaces are "two-sided", in that they serve both customers and sellers, they are constrained by competitive forces on both sides of the market. Marketplace competition is also affected by cross-side network effects to some degree – both because customers want to shop on a marketplace with a large number and diversity of sellers to provide them with the greatest choice and value, and because sellers want to list their products on the marketplaces with the most potential customers.

However, the marketplace sector in Australia is relatively early in its development and competitive conditions could change relatively quickly.

### 3.3 Trends

The Australian retail sector was historically served predominately by bricks-and-mortar retailers. However, growth in online shopping has significantly outpaced the growth of bricks-and-mortar retailers because consumers increasingly see online shopping as a viable and safe alternative to traditional bricks-and-mortar retailing. Annual revenue growth in online shopping was around 19.2% between 2016 and 2021 and is anticipated to be around 6.9% between 2021 and 2026.<sup>34</sup>

The impact of COVID-19 has seen a significant increase in levels of online shopping growth in Australia as many traditional, bricks-and-mortar retailers have added online sales capability to respond to lockdowns and restrictions on movement. For the 12 months to 30 June 2021, online shopping in Australia grew 31.8% year-on-year after increasing by 33.2% in the previous financial year.<sup>35</sup> According to eBay research, 58% of people felt safer shopping online than in-store,<sup>36</sup> and the increase in online shopping was largely driven by people having more time to browse (75%) and being at home to collect deliveries (75%).<sup>37</sup> Australians also noted the

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<sup>32</sup> Issues Paper, page 8.

<sup>33</sup> Issues Paper, page 3.

<sup>34</sup> IBISWorld, Online Shopping in Australia X0004 June 2021, page 10.

<sup>35</sup> Australia Post, [Inside Australian Online Shopping – eCommerce update](#), July 2021.

<sup>36</sup> eBay, [Lockdown – One Year On. eBay Australia Public Policy](#), 18 March 2021.

<sup>37</sup> eBay, [Lockdown – One Year On. eBay Australia Public Policy](#), 18 March 2021.



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financial benefits of online shopping, with 80% saying they can find better deals and save money.<sup>38</sup> Australian online shopping revenues are anticipated to rise by 35.3% in the 2021 calendar year.<sup>39</sup>

In addition to COVID-19 and general drivers of retail sector growth, such as positive economic fundamentals (e.g. population growth and consumer sentiment), Catch anticipates that increases in online shopping will continue due to the following factors:

- weaker income growth has resulted in changing consumer attitudes that have prompted a proportion of households to scale back expenditure or opt for cheaper alternatives, fostering bargain hunting and consumers increasingly expecting to purchase products at a discount;<sup>40</sup>
- rapid growth in internet and mobile device usage, including increasing use of higher speed 4G and 5G networks;<sup>41</sup>
- access to faster and more secure internet connections (with the rollout of the NBN) in regional areas, increasing the potential online customer base;<sup>42</sup>
- older Australians becoming increasingly computer literate;<sup>43</sup>
- online shoppers becoming more sophisticated as delivery, return conditions, personalisation, and better search tools produce a better overall experience;
- increased product ranges being made available online at competitive price points and ranges of quality;
- large numbers of sophisticated new operators entering the online space – these new entrants have driven increased awareness and improvements in online customer experiences;
- large uptake in online sales by smaller retailers given the increase in software-as-a-service (**SaaS**) providers making it easier for smaller businesses to sell, take payment and fulfil orders;
- increased interest in online shopping driven by the growing popularity of online sales events (such as 'Black Friday' and 'Cyber Monday' sales, as well as 'Afterpay Day' and Amazon 'Prime Day', which was launched in 2018 in 17 countries including Australia and was responsible for Amazon acquiring more new Amazon Prime members than any previous day in Amazon's history<sup>44</sup>);
- more and easier ways to pay online, including buy-now-pay-later apps (e.g. Afterpay and zipPay). These newer payment services are particularly popular with younger consumers and are likely to support further growth in online shopping in the next five years;<sup>45</sup> and

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<sup>38</sup> eBay, [Lockdown – One Year On, eBay Australia Public Policy](#), 18 March 2021.

<sup>39</sup> IBISWorld, Online Shopping in Australia X0004 June 2021, pages 4 and 10.

<sup>40</sup> IBISWorld, Online Shopping in Australia X0004 June 2021, page 13.

<sup>41</sup> IBISWorld, Online Shopping in Australia X0004 June 2021, page 15.

<sup>42</sup> IBISWorld, Online Shopping in Australia X0004 June 2021, page 10.

<sup>43</sup> IBISWorld, Online Shopping in Australia X0004 June 2021, page 10.

<sup>44</sup> See <https://fortune.com/2018/04/18/amazon-prime-members-millions/>.

<sup>45</sup> IBISWorld, Online Shopping in Australia X0004 June 2021, page 16.

- customers opting to use mobile devices for transactions and payments.<sup>46</sup>

Catch also anticipates further growth in marketplaces, in line with international trends. Internationally, an increasing proportion of online shopping is being done through marketplaces. In China, for example, marketplace penetration is in excess of 75% – that is, three-quarters of all online sales are made through a marketplace model.<sup>47</sup> In Australia, consumers now commence 24% of their online product searches on marketplaces (behind search engines, but ahead of retailers' online shopfronts) and 39% of shoppers use marketplaces as their primary channel to buy online.<sup>48</sup>

### 3.4 Entry and expansion of marketplaces

Barriers to entry and expansion by marketplaces are relatively low and the costs of entry are moderate. Catch is a relatively recent entrant and other entrants in the past five years have included Amazon, Kogan and Myer.

Factors that lower the barriers to, and costs of, entry include:

- technology cost barriers to entry have decreased over time. The emergence of SaaS marketplace technology solutions from a variety of vendors, such as Shopify, Marketplacer and Mirakl,<sup>49</sup> have enabled quick market entry utilising third-party technology;
- there are a large number of existing marketplaces operating in other countries that could choose to focus more directly on Australia. Such players are able to utilise existing technology and expertise in expanding geographically into Australia;
- new marketplace entrants and sellers can take advantage of third-party fulfilment models, which are capital-light;
- customer switching costs are low – as discussed in section 3.2, multi-homing is common and customers regularly switch between online marketplaces and use them for price discovery and comparison;
- online retail is growing generally in its popularity and acceptance by consumers (as identified by the ACCC<sup>50</sup>), which is conducive to new entry and expansion; and
- there are no material legal or regulatory barriers to entry.

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<sup>46</sup> IbisWorld, Online Shopping in Australia X0004 June 2021, page 12.

<sup>47</sup> Neto, [Where to Sell Online – 2019 Marketplaces Report](#).

<sup>48</sup> Neto, [Where to Sell Online – 2019 Marketplaces Report](#).

<sup>49</sup> Catch's own marketplace utilises Mirakl's back-end marketplace technology.

<sup>50</sup> Issues Paper, page 6.

## 4. Relationships between marketplaces and consumers

As noted above, the evolution of online and marketplace retail has provided multiple benefits to customers. These benefits include:

- greater choice, with access to a broad range of products through a variety of online retailers and sellers;
- enhanced flexibility in being able to browse, compare and purchase these products from anywhere customers can access the internet; and
- enhanced value through the increased intensity of competition not only domestically but on a global scale, which assists in driving down prices for customers (both on marketplaces and in other retail channels).

Catch's overarching goal is to provide positive customer experiences for both in-stock and marketplace sales in order to drive repeat customer engagements, including by encouraging customer loyalty, word-of-mouth referrals and positive social media messaging. Catch recognises that poor customer experiences with marketplace transactions, even if through no fault of Catch, impact upon customer perceptions of Catch's platform. As such, managing adverse customer interactions, such as late deliveries, faulty or defective products and disputes between sellers and customers, is a key business priority. Catch also recognises the paramount importance of compliance with the *Australian Consumer Law* and other applicable laws.<sup>51</sup>

### 4.1 Dealing with customer complaints

Like all businesses, whether online or bricks-and-mortar, Catch strives to provide positive customer experiences. To achieve this, Catch continually invests in and improves its customer service functions.

Catch's customer service department has teams based locally in its Melbourne head office and in the Philippines, which deal with customer service issues relating to both in-stock and marketplace transactions.

Customers can raise questions or report problems with products, sellers or other issues via Catch's Help Centre, which can be accessed via phone, webchat, email or by lodging a ticket through links at the top of the *Catch.com.au* website or via the functionality within the iOS and Android apps. In the Help Centre, customers can choose to contact Catch or a marketplace seller directly. If the customer's issue relates to a Catch Marketplace transaction, the customer will be directed to contact the seller in the first instance (through the Order History section of their account or via the Help Centre) and follow the seller's own dispute handling procedures.

In respect of product quality concerns, the seller and customer will work together to coordinate the return of the item directly to the seller and the seller will action the appropriate resolution for the customer. This process occurs via Catch's platform and Catch will usually have minimal involvement in return requests for Catch Marketplace transactions – including because the seller is best-placed to assess and expedite a resolution for the customer, as it has ready access to the

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<sup>51</sup> Catch has the following policies, agreements and guidelines, which govern how customers buy products from Catch Marketplace: (i) the [Terms and Conditions of Use and Sale](#); (ii) the [Privacy Policy](#); (iii) the [Club Catch Terms and Conditions](#); (iv) the [Warranty Terms and Conditions](#); and (v) the [Review Policy & Guidelines](#).

relevant technical expertise, manufacturer relationships, testing facilities, spare parts and repairers.

If the customer and seller cannot resolve a return request, either party can escalate the request to Catch's Marketplace Disputes team via the Help Centre.

If a dispute arises, Catch's Marketplace Disputes team has a process to facilitate a resolution of the dispute, which involves consultation with both parties as necessary via Catch's messaging platform and may ultimately involve Catch determining an outcome for the dispute if the seller is unresponsive. That process is generally effective in encouraging the resolution of disputes between customers and sellers, while providing a clear escalation channel to ensure consumer rights are being upheld. Catch continually reviews this process to ensure faster turnaround times for customers for escalated cases, as well as exploring means to provide feedback to sellers from resolved cases.

### 4.2 Product and seller reviews

As with many retail websites, customer reviews are an important tool used on Catch's platform to give customers confidence and provide useful information in relation to products and sellers. When a product is purchased from Catch Marketplace, the platform prompts the customers to provide a review of both the product and the seller. Reviews are on a 1 to 5 star scale, with 5 stars being the highest rating, and there is also an option to submit a narrative comment. To submit a review, the customer must have created an account, purchased and received the product. When searching for products, customers can filter search results by reference to the average product or seller rating.

Catch's Review Policy & Guidelines describe how Catch manages reviews for both in-stock products and sellers.<sup>52</sup> As set out in the Review Policy & Guidelines, reviews:

- must be relevant and directly related to the reviewed product or seller;
- must not be solicited in any way by a third party;
- must not be submitted by a party with a commercial/personal interest in the manufacturer or supplier of the goods or services;
- must not mislead customers, or otherwise abuse the review functionality;
- must not contain language or content which is defamatory, offensive, hurtful or abusive; and
- must not contain personal contact information, including full names, email addresses, phone numbers, addresses or other such information.

Reviews are screened to seek to identify breaches of Catch's Review Policy & Guidelines. Catch will not post or will remove reviews that do not comply with its Review Policy & Guidelines. Catch also monitors issues reported in reviews to identify potential problematic products or sellers on its platform.

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<sup>52</sup> See <https://www.catch.com.au/review-policy>.

### **4.3 Product safety**

Catch is committed to ensuring that products sold on its platform, whether from its in-stock business or Catch Marketplace, comply with Australian product safety standards and laws and do not cause harm to customers. Catch is a founding signatory to the Pledge and participated in the consultation process with several other marketplaces.

As discussed in section 2.1, sellers fulfil marketplace orders and generally Catch does not acquire, or have physical custody of, products sold through Catch Marketplace. Sellers have primary responsibility for ensuring product safety under the *Australian Consumer Law* and there are limits to Catch's ability to ensure the safety of products on Catch Marketplace. Catch's Participation Agreement mandates that any goods sold on Catch Marketplace must comply with all applicable product safety laws. Additionally, the Pledge extends Catch's commitment to keeping Australian consumers safe beyond its strict legal obligations and, in implementing the Pledge, Catch is seeking to improve the speed of detection of unsafe goods following listing, to enable faster and more efficient removal of identified unsafe products, and to raise Seller awareness of the importance of product safety, as described below.

Catch seeks to ensure the safety of customers purchasing from Catch Marketplace in the following ways:

- **Contractual obligations:** Through the Participation Agreement, Catch:
  - reserves the right to reject the registration of a seller if it believes that the seller's products are unsafe or may infringe any law;<sup>53</sup>
  - obliges sellers to provide accurate details and descriptions of any required safety notices, labelling or warnings in relation to products offered;<sup>54</sup>
  - requires all products sold by sellers to be safe and comply with all applicable Australian laws, product safety requirements and mandatory standards;<sup>55</sup> and
  - if a seller becomes aware of any actual or potential defect, fault or condition in their goods that poses a safety risk, requires the seller to immediately notify Catch of (i) the specific goods affected, (ii) the nature of the risk(s) and (iii) any proposed action to be taken in relation to the risk(s).<sup>56</sup>
- **Product Safety Guide:** Catch publishes, and distributes to sellers, a Product Safety Guide that contains information on various product safety standards and how sellers can ensure their products comply. It also makes the Product Safety Guide available through its Seller Portal.
- **Product Safety Bulletins:** Catch monitors emerging hazards and trends by reviewing the information it receives from various regulators. Based on these sources, Catch compiles product safety bulletins on specific product safety issues (for example the recent changes to regulations regarding button batteries), which it sends to the relevant sellers.

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<sup>53</sup> Participation Agreement, 3.

<sup>54</sup> Participation Agreement, 5.1(b).

<sup>55</sup> Participation Agreement, 5.3 and 12.1.

<sup>56</sup> Participation Agreement, 12.2.

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- **Gating and banned products:** Catch has implemented a product-gating tool that it uses to capture listings of banned, unsafe or recalled products so that those products cannot be listed or sold on the platform. Catch is also committed to exploring new technologies to assist in monitoring for these products in accordance with the Pledge.
- **Product Safety Audits:** Catch's Product Integrity and Safety team undertake regular (daily) targeted audits of certain product categories based on information obtained from a variety of sources, including local and international recalls, customer complaints, media or industry reports and regulator contacts (often facilitated through Catch's engagement with the ACCC Product Safety Branch). Product Safety Audits typically involve requesting sellers to provide further information about their products, such as product safety test reports. Deeper audits can involve test purchases or requesting samples of products to be tested. Catch requires sellers to demonstrate product compliance or have products removed from the platform.
- **Pre-listing checks:** Catch's Product Integrity and Safety team is involved in the onboarding process and conducts checks of certain products based on risk criteria to ensure they meet safety requirements.
- **Product safety investigations and takedowns:** Catch routinely conducts investigations into reports of potentially unsafe products. Those investigations can result in products being immediately removed from the platform while the issue is investigated, sellers being subjected to a Product Safety Audit, or further actions being taken against the seller for breach of their contractual obligations or Catch's policy requirements. These actions will be commenced as a result of reports or information obtained from:
  - customers reporting unsafe products through the Help Centre, or one of the other contact channels described in section 4.1;
  - product takedown requests issued under the Pledge framework;
  - reports of emerging hazards through industry bodies (for example, Catch is a member of INPAA and also engages with organisations like KidSafe);
  - product safety recall reports from Australia and other jurisdictions, such as the UK, EU and US, which Catch's Product Integrity and Safety team regularly monitor; and
  - news or other reports of potential product safety issues or emerging hazards (for example, Catch recently commenced Product Safety Audits on sellers of electric scooters after noticing news reports and various YouTube videos of batteries in these products causing fires).
- **Direct communication with regulators:** Catch meets twice annually with the ACCC's Industry Compliance and Engagement team where it provides updates on its product safety initiatives and discusses trends and emerging issues in product safety. Catch's Product Integrity and Compliance team is also the single point of contact for regulators to directly report safety-related issues.

## 5. Relationships between marketplaces and sellers

Attracting sellers to its platform and maintaining positive, constructive relationships with them, is critical to the success of Catch Marketplace as it makes the platform more attractive to customers, by allowing them to access a greater range and variety of products, as well as generating revenue for Catch. As such, Catch places a high priority on its relationships with its sellers.

In establishing Catch Marketplace, Catch was also eager to preserve the customer trust and reputation for product quality that it had built in its in-stock business over a decade by providing high quality products with a strong focus on product safety, robust policies and a culture focused on customer support.

### 5.1 Becoming a seller and listing products on Catch Marketplace

Catch's seller selection and onboarding processes seek to keep the Catch customer experience as consistent as possible across its marketplace and in-stock businesses.

All sellers agree to be bound by the Participation Agreement, Catch's associated rules, guidelines and policies, and Catch's Privacy Policy, in order to sell through Catch Marketplace.<sup>57</sup> To support sellers, Catch publishes plain language eligibility criteria, seller onboarding materials and supporting FAQs that complement its Participation Agreement. Those materials set out simple rules for sellers (for example in relation to product descriptions), and provide helpful tips to assist sellers to maximise their sales.

Catch is not a self-serve marketplace, and prospective sellers must apply and go through a vetting process to ensure that they comply with Catch's seller eligibility criteria. Catch's seller eligibility criteria include that the seller has an established and professional business that can fulfil orders effectively and maintain accurate inventory and account management, has a safe and high quality product range, and is aligned with Catch's Values Statement (particularly value for money and excellent customer service).<sup>58</sup> Catch does not require sellers to enter 'price parity' agreements requiring sellers to sell at the same price on other platforms.

The process for onboarding a seller involves a series of checks by a Catch Marketplace BDM, Quality Assurance team and Product Integrity and Compliance team for compliance with Catch's seller eligibility criteria. For high risk and regulated products, depending on the product type, specific information may be required (such as test results and regulatory registrations) and Catch may conduct manual product checks to confirm compliance with mandatory safety, labelling and other standards.

Sellers go through a similar process when they introduce new products onto the marketplace.

### 5.2 Selling on Catch Marketplace

Once approved to sell products on Catch Marketplace, sellers control their sales and promotional activity. Sellers are responsible for managing their product catalogue and have discretion over the products that they list (subject to the pre-approval process described above) and their pricing.

Sellers can choose to apply promotional offers to their products to be shown in one of Catch's various sales events (see section 5.4(b)(i)). Sellers will also be invited to participate in larger

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<sup>57</sup> See <https://sell.catch.com.au/catch-marketplace-seller-participation-agreement>.

<sup>58</sup> See <https://sell.catch.com.au/how-to-get-started/>.

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retail calendar promotions run on Catch, such as EOFY, Click Frenzy, Black Friday, Cyber Monday and Christmas events. Sellers can also participate in paid events, which may involve more prominent promotion of their event and products on the platform and promotion in electronic direct marketing.

Sellers have access to Catch's Seller Portal to support their participation on Catch Marketplace. The Seller Portal includes Catch's various selling and listing policies, information on how to use the platform, as well as material Catch publishes relating to product safety and compliance.

Catch does not require sellers to sell exclusively on Catch Marketplace and many sellers also supply their products on other online marketplaces, on their own websites, in bricks-and-mortar retail stores and/or through wholesale distribution channels. There are no lock-in contract periods or penalties for sellers who remove their products from Catch Marketplace.

Catch charges sellers commission fees on products sold via Catch Marketplace and a fixed monthly store fee of \$49.99 including GST (this is waived for the first two months from launching on Catch Marketplace). There is no listing fee. Commission fees apply to the order total, including GST. Catch covers all merchant fees (including PayPal, credit card, zipPay, Afterpay and LatitudePay fees. Commission fees are refunded in full for all refunded orders. Commission fees are generally dependent on the product category and are set when a seller signs up to Catch Marketplace.

When a seller sells an item through Catch Marketplace, Catch collects the funds from the customer and remits them (less fees or refunds made to customers) to sellers within 10 days of the date on which the product is dispatched.

Catch requires that most sellers ship all orders within 48 hours of order (excluding weekends and public holidays) and recommends that parcels are sent with tracking information and reach customers within 3 to 5 business days (domestic) and 10 business days (international).

Catch also has robust seller complaint and dispute resolution processes. The first line of support for sellers is Catch's Marketplace Experience team, which provides support to sellers on everyday questions regarding listings, orders and technical issues. There are various escalation processes within this team, based on the types or nature of questions. Depending on their size, certain sellers will also be assigned an Account Manager, who is their main point of contact with Catch.

### 5.3 Removing products from Catch Marketplace

Catch may, through its Quality Assurance team, intervene and remove a product from Catch Marketplace where it becomes aware of a breach of the Participation Agreement – in particular where:

- the product is reasonably believed to be unsafe or of an unacceptable quality;<sup>59</sup>
- the product is in breach of any product safety or other requirements under Australian law;<sup>60</sup>

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<sup>59</sup> Participation Agreement, 5.5(a).

<sup>60</sup> Participation Agreement, 5.5(a).



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- the product infringes any third-party Intellectual Property rights;<sup>61</sup>
- the listing for the product is inaccurate, out-of-date or otherwise misleading;<sup>62</sup>
- any other credible and serious claim has been made against a product/seller that requires product removal;<sup>63</sup> or
- the seller does not have the right to sell and dispose of the goods.<sup>64</sup>

Sellers are generally given an opportunity to remedy a breach of the Participation Agreement before the removal of their product from Catch Marketplace, such as by editing or updating their listing. However, the action taken by Catch may depend on the nature of the breach (for instance, products with a serious safety issue will be removed immediately).

Catch identifies potential safety issues, or other breaches of its Participation Agreement, through various means, including customer complaints and reviews, Product Safety Audits (as discussed in section 4.3) and reports from regulators including the ACCC.

### 5.4 The display of goods on Catch Marketplace

#### (a) Product information

Catch relies on sellers to provide accurate product information for the products they wish to list and sell on Catch Marketplace. Sellers must provide the product title, description, features, brand information and price details, including shipping cost and any promotional price details or information. Sellers must also provide at least one product image that adequately shows the product, and can provide up to five additional images. The Participation Agreement requires sellers to confirm that all information provided is accurate and up-to-date, compliant with all applicable laws and does not breach any third-party intellectual property rights.<sup>65</sup>

Depending on the product type, the seller may also need to provide consumer advice or mandatory information requirements. For example, cosmetics are required to contain ingredients lists, foodstuffs are required to provide a declared list of allergens, therapeutic goods are required to include an ARTG number, and sunglasses are required to provide a UV category rating.

#### (b) Product display

Customers can access products on Catch Marketplace:

- indirectly through third-party search engines; or
- directly on the platform, either by searching or navigating the product menu, or through entering a preselection of products through an 'event' (described below).

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<sup>61</sup> If Catch receives a complaint alleging that a product sold by a seller on Catch Marketplace breaches their intellectual property rights, Catch will investigate the complaint and, where appropriate, remove the product from Catch Marketplace and notify the seller of how the complaint can be rectified; and/or provide the seller with the details of the complaint to enable the seller to resolve the issue directly.

<sup>62</sup> Participation Agreement, 5.5(c).

<sup>63</sup> Participation Agreement, 12.5(c).

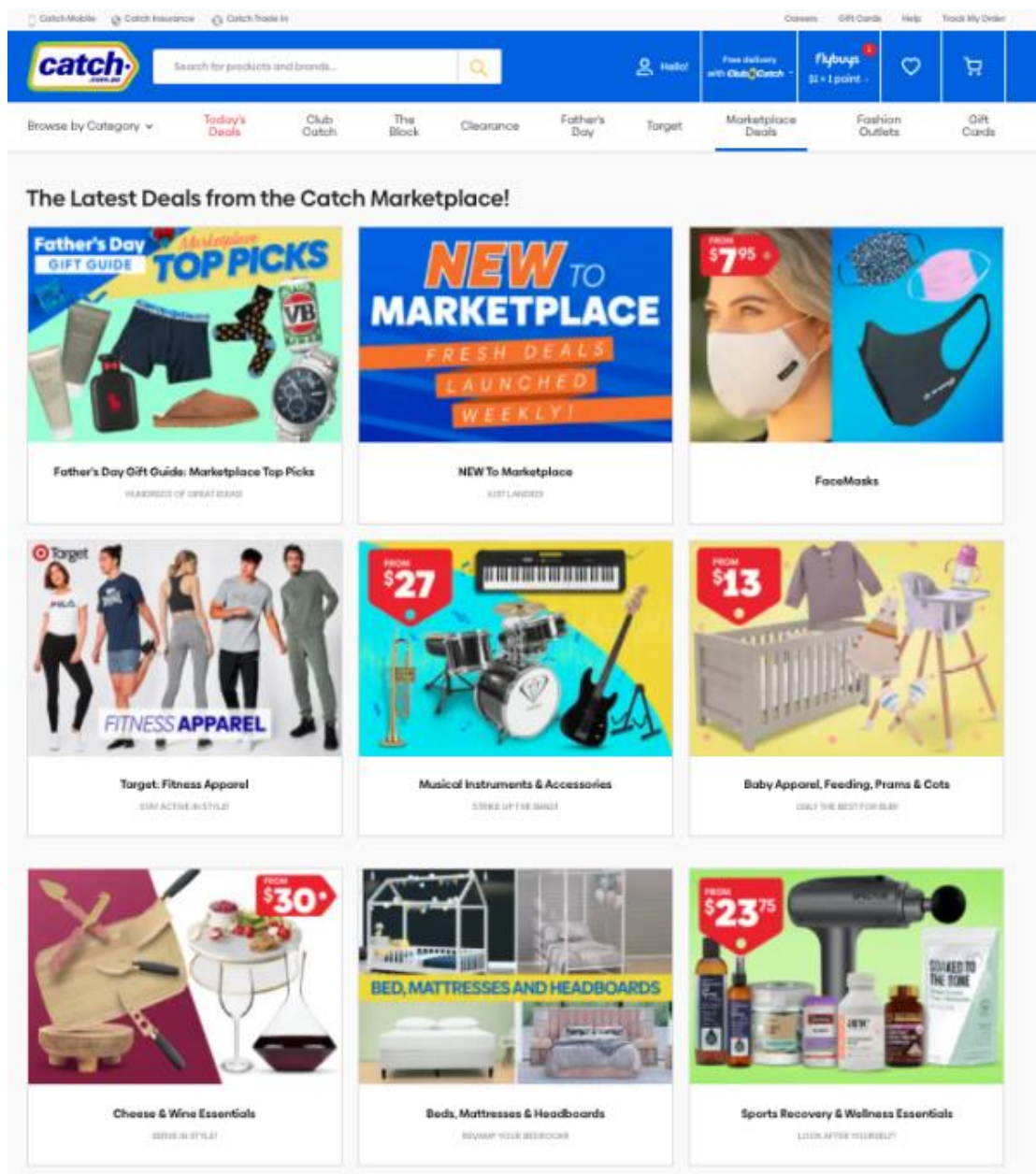
<sup>64</sup> Participation Agreement, 5.5(c).

<sup>65</sup> Participation Agreement, 5.7.

**(i) Events**

Events evolved from Catch’s original “daily deals” business model. Events are launched on the site daily. Events are identified via a banner on the home page and can be accessed via a dropdown at the top of the home page, as shown in Figure 2.

**Figure 2 – Example of an event on Catch Marketplace**



Events are a means of highlighting products to customers based on typical retail considerations, such as special offers, seasonality or brand marketing collaborations. These events can feature one or more products or offers across one or more categories and may comprise in-stock or Catch Marketplace products, or both.

Events are generally promoted to customers through email direct marketing and/or on social media. Larger campaigns are advertised on radio, in print or on television.

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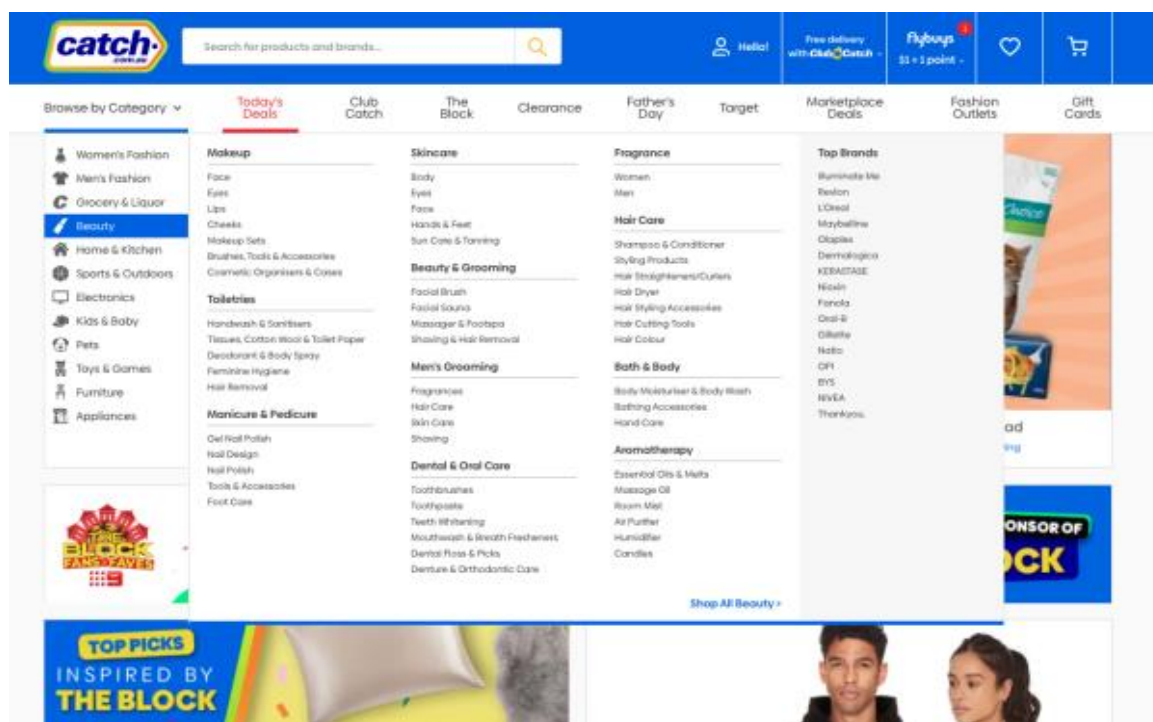
When a customer clicks on an event, products specifically related to that event are presented to customers in a new page as a series of tiles that show an image of each product and its price. These products are selected by a combination of Catch's in-stock, marketplace and merchandising teams, who will consider matters such as the relevance of the product to the event, popularity, price and other general marketing or merchandising considerations. Sellers can purchase packages entitling them to participate in a dedicated event, a Catch newsletter and/or a homepage banner.

For completeness, Target began selling its products on Catch Marketplace in July 2020 and Catch began selling Kmart products on the Catch platform (but not on Catch Marketplace) in January 2021.<sup>66</sup> Target has a dedicated page on each of the *Catch.com.au* website and app, accessible from the product categories dropdown at the top of website and app pages (see Figure 2). In terms of product display on Catch's websites and apps, Catch does not treat Target products differently from seller products that are featured in events or displayed in response to customer searches on Catch.

### (ii) Customer searches on Catch websites and apps

Customers can find products through Catch's various search, menu and filter functions when navigating Catch websites and apps. This is done through either the keyword search bar or through product category menus, shown in Figure 3 in relation to the *Catch.com.au* website.

Figure 3 – Search bar and product category menus on *Catch.com.au*



The presentation of products in search results is primarily dictated by the relevance of the product to the query. For example, a keyword product search will show the closest matches to the customer's keywords first and also factors in aggregated historical search performance.

<sup>66</sup> Catch customers who purchase Target products can obtain free home delivery on Target orders over \$45. In addition to Catch's standard delivery options, Target products can be collected from Target stores specified by customers.

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These searches can then be sorted further based on filters selected by the customer, specifically 'most popular', 'highest price', 'lowest price', 'biggest savings' and 'newly added'.

### (iii) Singular product presentation and the buy box

Catch's platform does not duplicate product listings where Catch and a seller (or multiple sellers) offer the same product, but rather the platform shows a singular product listing which then allows customers to select Catch or a seller through a 'buy box', shown on the right hand side of the page as seen in Figure 4. The customer can either select 'Add to Cart' from the default buy box option or select from one of the multiple other sellers listing the product.

Figure 4 – Catch buy box

The screenshot displays a product listing for 'DRAKKAR NOIR' by Guy Laroche. The product image shows a black box and a black bottle. The price is \$49. The quantity is set to 1. There are 'ADD TO CART' and 'BUY NOW' buttons. Below the main buy box, there is a 'More buying options' section listing various sellers and their prices, including 'Hydralife (Shipped from USA)', 'HD Electronics', 'Perferry', 'Parfums Warehouse', 'Healthworld Pharmacy Group', 'SE Sozeta', 'PriceBazaar', 'BeautyWorld (Shipped from Overseas)', 'Valma Aroma Scent', 'Your Discount Chemist', and 'Tria Beauty (Shipped from Overseas)'.

Catch notes that [REDACTED] of products sold on the Catch platform are sold by both Catch's in-stock business and at least one Catch Marketplace seller.

## 6. Catch's collection and use of data

### 6.1 Data and consumers

In common with all online retailers, Catch collects customers' personal information, consistently with its Privacy Policy, for purposes including targeting advertising, product enhancements and recognising consumer preferences. Catch seeks to communicate openly and clearly with customers about the collection and use of their data and does not sell customers' data to third parties.

Catch collects customers' information when they use, register or subscribe to Catch's websites and apps, complete transactions, or contact Catch or a seller. The type of customer data to which Catch has access is the same as the type of data available to all competing online retailers and marketplaces.

To establish an account with Catch, the required data fields are the customer's name and email. There are four optional data fields that a customer can provide, being their gender, birthday and whether they would like to connect a Google or Facebook account once they have an active account, but these data fields are not required to make purchases or to create an account. Once a customer starts making purchases, Catch collects and stores their delivery and billing address, payment method (and payment card details if requested by the customer) and purchase history, as well as a record of their inquiries, complaints, reports, returns and other contacts.

Catch also collects data that drive features and enhancements to its websites and apps, including wishlist items, product reviews, Flybuys numbers and behavioural data (such as customers' browsing patterns on Catch websites and apps).

Catch collects, stores and uses customers' personal information consistently with its Privacy Policy, terms of service and applicable laws, including the *Privacy Act* and the *Australian Consumer Law*. The purposes for which customers' data are used are disclosed in Catch's Privacy Policy,<sup>67</sup> and include to:

- improve its online retailing business (including Catch Marketplace);
- personalise customers' experiences on Catch websites and apps;
- undertake data analytics (including with its affiliates), to enable it to better understand customers' requirements and preferences; and
- provide offers that are of greater interest or benefit to customers, including promotions, competitions, marketing activities (like direct marketing).

Catch shares customers' personal information with its affiliates in the Kmart and wider Wesfarmers groups, as permitted by Catch's Privacy Policy. Data shared within the Wesfarmers group is used, for example, for insights, such as to better understand aggregate consumer preferences and the impact of ranging decisions.

### 6.2 Data and sellers

Catch only shares with sellers the data from customers that those sellers need to fulfil customer orders, being the name, email address and delivery address, as well as a customer's order

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<sup>67</sup> Privacy Policy, 2.1-2.12.

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history with the particular seller. If a seller needs to contact a customer, they can do so through the Seller Portal on Catch Marketplace. Subject to the above, a seller will not receive customers' contact details from Catch, unless the customer volunteers this information to the seller.

Catch's Participation Agreement requires a seller to hold customers' personal information in a manner consistent with the *Privacy Act*, and does not allow sharing of customers' personal information with third parties, except to fulfil those customers' orders or for the seller to perform its obligations under the Participation Agreement. Sellers must not otherwise use customers' information to send any marketing material, third-party offers, or other sales-related communications.<sup>68</sup>

Catch shares with sellers data insights to help them to improve sales performance. In particular, sellers can view data, such as on their sales, events and page views, via a dashboard.

In order for sellers to use Catch Marketplace, they are generally required to provide information including contact details, payment information, business capability information (such as employee numbers and warehousing and fulfilment capability) and detailed product information. Catch will also gather further information about sellers' products and businesses in the course of any audits or investigations regarding their conduct or products.

Catch thanks the ACCC for its consideration of this submission and looks forward to participating further in the ACCC's inquiry.

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<sup>68</sup> Participation Agreement, 15.1-15.3 and 16.2.