# Amazon blames ‘error’ for blocking Nintendo resellers from listing products

Amazon Marketplace sellers who deal in new, used, and refurbished Nintendo products woke up to a peculiar notice yesterday: without warning, Amazon was telling third-party sellers that they could no longer list Nintendo products of any kind without seeking approval. The policy change appeared to affect both Nintendo games and Nintendo hardware like 3DS handhelds. At first blush, it looked like two companies had stuck a so-called brand gating deal, common in e-commerce and designed to restrict third-party sellers who may traffic in counterfeits.

After a day of silence, Amazon says the email notifying Nintendo resellers of the apparent policy change was a mistake. “Yesterday’s email was sent in error and all impacted listings were reinstated within hours,” a company spokesperson now tells *The Verge*. Despite Amazon’s claim that all listings were reinstated, a forum thread filled with affected Amazon Marketplace sellers has been active for the last 24 hours. It’s unclear how many sellers were affected, and whether Amazon has communicated the error to them.

Initially, the policy change looked quite similar to the type of brand gating deals Amazon has struck with Apple and other companies in the past. Those deals have had the effect of kicking off all but the largest third-party sellers from an e-commerce platform, ostensibly as a tool for counting down on counterfeit products. (Nike is another big-name Amazon partner in this regard.) But dozens of legitimate third-party Nintendo

sellers were saying they were being cut off from the most lucrative US marketplace for selling online goods without any explanation and without any guidelines for how to proceed.

*Amazon now says it has reinstated all Nintendo resellers' listings*

According to an email provided to *The Verge* from a Nintendo seller on Amazon, the company's initial message read, "As part of our ongoing efforts to provide the best possible customer experience, we are implementing approval requirements for Nintendo products… Effective on 2019-10-31, you will need approval to list the affected products. If you do not obtain approval to sell these products prior to 2019-10-31, your listings for these products will be removed." That the policy went into effect the same day the notice was issued, giving sellers no time to prepare, raised reg flags.

That was not the case last fall when Amazon struck a deal with Apple and gave sellers a few months' heads-up. There was also no clear indication which products were affected, causing further confusion. It seemed to primarily be targeting old games, but some sellers said they were able to list products as refurbished or new in some cases and keep the listing active. As *Ars Technica* reported, "counterfeit retro Nintendo cartridges have been an open secret among Amazon sellers for some time."

The publication spoke to a Nintendo seller who says a standard order of roughly two dozen old *Pokémon* games, even from a major retailer like GameStop, might arrive with 12 or so bootleg cartridges. Many believed the apparent deal was designed to cut down on counterfeit and bootleg practices in the retro Nintendo reselling community. But without official comments from either Amazon or Nintendo for a full day, it was difficult to figure out exactly what was happening.

In the case of the official Apple deal, resellers were exempted so long as they met the inventory requirements set

out in Amazon's Renewed program, which for Apple involves purchasing at least $2.5 million products over the course of the prior 90 days. For all other products, Amazon says, "Supply invoices showing a minimum a total value of $50,000 in qualifying refurbished purchases in the previous 90 days from the date of the application."

The effects of brand gating can be devastating for sellers of brands that have discontinued products and products that involve technical upkeep, like consumer electronics. Small Apple sellers on Amazon, for instance, that focused on refurbished MacBooks and iPods saw their businesses disappear overnight when the deadline for the Apple deal arrived back in January of this year. A majority of those sellers, very few of which can reasonably meet the Renewed requirements, were forced to start using their personal websites, eBay, Etsy, and other marketplaces. Some told *The Verge* Amazon was responsible for a bulk of their business.

Over the summer, the Amazon-Apple deal became a fixture of regulatory concern, when the Federal Trade Commission began interviewing Apple resellers about the effects of the Amazon deal. A formal investigation has yet to open, but Amazon's handling of third-party sellers on its Marketplace, which is larger than its entire internal retail division by revenue, has become a focus in the federal government's antitrust investigations into Big Tech. Amazon Marketplace, and how Amazon uses sales data it gleans from third-party sellers to develop its in-house products for its private label brands, is also at the center of a European antitrust investigation into the company.

***Update November 1st, 5:25PM ET:*** *Clarified that Amazon now says the email notifying Nintendo resellers of the new approval policy was sent by mistake and all listings have been reinstated. The headline has been updated to reflect this fact.*

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