

fyi-request-17217-f66594b6@requests.fyi.org.nz

16 November 2021

Dear John Luke

RE: OIA 20-21-09 NZTE and Alibaba Memorandum of Understanding (MoU)

Thank you for your email of 19 October 2021, requesting the following information:

1. A full copy of this MoU and it's term of conditions
2. How it got reviewed and renewed.
3. Who is the person in charge of this MoU within NZTE.
4. Does NZTE sign any similar MoU with other entities, please provide the name of each entities you have similar MoU with.

The information you have requested is below and attached. This responds to your request in full.

1. *A full copy of this MoU and it's term of conditions*

Please see attached as Appendix One, NZTE's MoU with Alibaba which responds to your first request. We have withheld information under the following sections of the Official Information Act:

- s9(2)(a): protect the privacy of natural person.

2. *How it got reviewed and renewed.*

The NZTE MoU with Alibaba was signed in 2016 by NZTE's Chief Executive Pete Chrisp, and Alibaba's Australia and New Zealand Managing Director Maggie Zhou. The objective of the MoU was to support New Zealand businesses' e-commerce growth in China through Alibaba's platforms. The MoU was signed for an initial 12-month period, with the option to extend after 12 months if both parties agreed. The MoU was not reviewed or renewed or extended however NZTE and Alibaba continue to work together closely on different e-commerce initiatives and opportunities to support NZ businesses' growth.

3. *Who is the person in charge of this MoU within NZTE.*

As this MoU is out of date and no longer stands, there is no one at NZTE who is in charge of this agreement.

4. Does NZTE sign any similar MoU with other entities, please provide the name of each entities you have similar MoU with.

NZTE has interpreted this request to mean does NZTE have any MoU's focused on e-commerce with entities similar in nature to Alibaba. While NZTE may enter into Memoranda of Understanding with other parties in the course of its business, to the best of its knowledge NZTE does not have a similar MoU in place with a multinational technology company specialising in e-commerce, retail, Internet, and technology entity such as Alibaba.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Yours sincerely



Melissa Trochon
DIRECTOR – BOARD AND MINISTERIAL

Encl List documents enclosed

- Appendix One: NZTE and Alibaba Memorandum of Understanding

Appendix One: NZTE and Alibaba Memorandum of Understanding SIGNED



MEMORANDUM OF AGREEMENT

between New Zealand Trade & Enterprise
and Alibaba.com Singapore E-commerce Private Limited

This Memorandum of Arrangement (this "MoA") is entered into on Monday April 18, 2016 between:

- (1) New Zealand Trade & Enterprise ("NZTE"), a New Zealand crown entity established under the New Zealand Trade and Enterprise Act 2003 and its Shanghai office being at Units 2801-2802A and 2806-2810, 28F Building 5 Corporate Avenue, No. 150 Hubin Road, Huangpu District, Shanghai 200021, People's Republic of China;

and

- (2) Alibaba.com Singapore E-commerce Private Limited ("Alibaba"), a company with registered address at 10 Collyer Quay, #10-01, Ocean Financial Centre, Singapore 049315;

Each of NZTE and Alibaba is hereinafter referred to as a "Party" and collectively, the "Parties".

WHEREAS, NZTE is New Zealand's international business development agency and its role is to assist New Zealand businesses grow into international markets.

WHEREAS, Alibaba and its affiliates comprise an e-commerce conglomerate which operates leading online and mobile marketplaces in retail and wholesale trade, as well as provide cloud computing and other services, including but not limited to Tmall.com, Tmall.hk, 1688.com, Alitrip.

CLAUSE 1 – NON-BINDING

The Parties acknowledge and agree that, except for this Clause 1, and Clauses 5, 7 and 8 which shall be binding, the understandings reached by the Parties in this MOA shall comprise only a general scope of rights and obligations of each Party and shall be non-binding. The specific scope, initiatives, terms and conditions and deliverables of the collaborations contemplated by the Parties in this MOA shall be further discussed, agreed and finalized by all Parties.

CLAUSE 2 – SCOPE OF INTENDED COLLABORATION

The Parties intend that:

A. In respect of Tmall.com and/or Tmall.hk (collectively, "Tmall"), Alibaba will:

- i. Provide an express enrolment service for New Zealand companies wishing to sign up to Tmall, facilitating New Zealand companies' efforts to promote their sales to China. Express enrollment will include clear and simple communication for New Zealand companies of the steps involved in trading and marketing through Tmall;
- ii. Provide a dedicated team to handle matters relating to New Zealand companies referred by NZTE. This team will work closely with NZTE in China and NZTE in New Zealand through Alibaba and/or its affiliates' Australia and New Zealand office to provide a consistent service for companies;
- iii. Provide reasonable proactive and preventive measures, in cooperation with New Zealand intellectual property rights (IPR) holders, to detect counterfeit products against repeated infringements. Such measures include arranging enforcement actions against IPR offenders strictly according to Tmall's respective rules in force including amongst others the removal of the infringing listings and suspending vendors who repeatedly supply counterfeits for sale. This includes enforcement of such rights on offending the TaoBao platform when and where original products are for sale on Tmall;
- iv. Run marketing campaigns across its multiple communication channels to promote a New Zealand online platform which gathers all the New Zealand brands willing to take part in the campaign;

- v. Provide (where requested by New Zealand companies and/or NZTE) a list of recommended logistics or imports partner with whom Alibaba or its affiliates work and based on the New Zealand brands' specific needs and requirements;
- vi. Provide NZTE, to the extent permissible under applicable laws and regulations, with aggregate brand and product category data that are already experiencing success on Tmall to allow NZTE to better target New Zealand brands for Tmall. The Parties shall adhere to and be bounded by Alibaba and its affiliates' data sharing policies in respect of such data;
- vii. Provide NZTE with a target list of potential brands and companies that Alibaba believes may be successful on Tmall.

B. Alibaba will by itself or through its affiliates:

- i. Provide high priority for New Zealand fresh produce to enter any future Tmall direct-sale store and Alibaba will support a "green channel" to New Zealand fresh produce and provide services such as warehouse renting, logistics, and cold chain recommendations, subject to applicable laws and regulations. Fresh produce includes but is not limited to chilled and frozen red meat, seafood, fruit and vegetables and dairy products;
- ii. Organize promotion/sales day specifically focused on New Zealand fresh produce;
- iii. Prioritize New Zealand fresh produce as one of the key categories to introduce to Chinese consumers via Alibaba's shopping list recommendation/education columns;
- iv. Help NZTE-preferred New Zealand companies in the fresh produce category to expand in the Chinese market.

C. In respect of Alibaba.com platform (domain name: www.alibaba.com), the leading global B2B e-commerce platform, Alibaba will:

- i. Facilitate New Zealand companies in their exploration of overseas markets and obtain cross-border trading leads via the Alibaba.com platform;
- ii. Promote New Zealand companies and their products to global buyers via online promotions on Alibaba.com, such as the Global Gold Suppliers Program;
- iii. Support New Zealand companies to gain more sourcing competitiveness in pricing and quality via Alibaba's Trade Assurance protection program.

D. In respect of 1688.com (domain name: www.1688.com), Alibaba's domestic B2B platform, Alibaba will by itself or through its affiliates:

- i. Set up a shopping mall for New Zealand companies, that will be directly displayed under the domain of 1688.com. The domain will tentatively be named as "nz.1688.com"; it is also can be binded as a first level domain and it is made available as a free website;
- ii. Offer solutions to qualifying New Zealand companies who want to register a company on www.1688.com in mainland China;
- iii. Provide a complete sales solution to New Zealand companies, such as exhibitions, distribution to chain stores, super markets, sales channel, wholesale, online distribution, internet store operations and other typical B2B categories;
- iv. Provide an online tool for companies to define the best sale products to China for the B2B market.

E. In respect of Alitrip (domain name: www.alitrip.com), the tourism and travel products transaction platform, Alibaba will by itself or through its affiliates:

- i. Co-operate with Tourism New Zealand to explore opportunities to cross-promote paired tourism and New Zealand food and beverage experiences, and also investigate other tourism-related initiatives as jointly agreed between Alitrip and Tourism New Zealand (under a separate MOA or understanding);
- F. In respect of its affiliate's Alipay services, Alibaba will use its commercial efforts to arrange for the:
- i. Provision of online payment solutions by Alipay for New Zealand merchants on their websites, which can attract more Chinese consumption and increased brand awareness for these merchants.
 - ii. Provision of offline payment solutions by Alipay for New Zealand merchants in their physical stores and services locations to expand the real economy and attract more Chinese tourists to their businesses while visiting New Zealand;
 - iii. Where applicable, facilitation of tax refund service to Chinese tourists by Alipay.
- H. NZTE will:
- i. Support Tmall.hk in their provision of training programs to New Zealand companies to sell on Tmall.hk. and work with partners to facilitate the delivery of a program to increase the number of companies seeking to export and grow their business through various channels of Alibaba;
 - ii. Invite Alibaba and/or its affiliates to relevant events as appropriate in order to promote Tmall to New Zealand companies;
 - iii. Work with Alibaba and its affiliates to support a program to help New Zealand companies understand the e-commerce opportunities in China and how such opportunities can be potentially optimized through e-channels within Alibaba;
 - iv. Connect with partners and private sector experts that can provide peer-to-peer mentoring for New Zealand companies seeking to export through e-channels of Alibaba, specifically Tmall;
 - v. Collaborate with Tmall and New Zealand companies to deliver retail and brand campaigns across China to increase the volume of New Zealand exports to China;
 - vi. Provide insights to Tmall about New Zealand companies that have online aspirations so that together both parties identify the most appropriate events to comprise a targeted marketing calendar on a yearly basis (NZTE's provision of insights under this clause is subject to existing confidentiality owed to third parties).
- I. In respect of fresh produce, NZTE will:
- i. Introduce New Zealand fresh produce brands within NZTE's portfolio of companies to the possibility of either opening a store on Tmall themselves or entering any Tmall direct sale store;
 - ii. Collaborate with Tmall as appropriate in cross marketing campaigns with New Zealand organizations, such as tourism and travel, fresh and gourmet food, grocery, seafood etc. associations to promote the awareness of New Zealand fresh produce and partnerships with any fresh produce direct sales platform of Tmall;
 - iii. Collaborate with any fresh produce direct sales platform of Tmall to support in the delivery of a New Zealand Fresh Food Day (promotion/education event), putting appropriate marketing resources including but not limited to media attention, New Zealand celebrity participation (for example movie, cooking, music, sports celebrities) such that a special premium is applied to New Zealand Fresh Food Day to make the campaign a success;

- iv. Assist as appropriate Chinese companies who are importing from New Zealand, in terms of training on trading and importing, in the fresh produce category.
- J. In respect of Alibaba.com, NZTE will:
 - i. Provide a centralized contact person in China for facilitating and promoting the collaboration with Alibaba.com to associations/chambers of industries and companies in New Zealand for sourcing or listing opportunities on the Alibaba.com platform;
 - ii. Support and co-operate with Alibaba to arrange international trade training programs with Alibaba.com for New Zealand companies;
 - iii. Support New Zealand companies to go through the authentication and verification procedure of Alibaba.com for their registration for the trade promotion and sourcing services of Alibaba.com.
 - iv. Support the provision to Alibaba.com of content intended to be incorporated into the Alibaba.com site, including but not limited to articles, text, images and video sequences, etc. in connection with New Zealand import and export data, international trade and industrial information (NZTE's support of this clause is subject to existing confidentiality owed to third parties).
- K. NZTE will support Alibaba by sharing with New Zealand companies within its portfolio applicable initiatives, as the initiatives are disseminated by Alibaba from time to time including:
 - i. The use of centralized facilities and recognized service providers in respect of:
 - a. Professional merchant photography
 - b. Chinese language translation
 - c. Chinese e-commerce platform promotion
 - d. 3rd party operation outsourcing
 - ii. The use of streamlined and simplified processes in following areas:
 - a. Company registration
 - b. Logo/trademark registration
 - c. Tariff, taxation and other governmental charges
 - d. Warehouse and office rental
 - iii. The option to adopt Alibaba's trace and tracking system QR code onto products to ensure authenticity throughout the entire supply chain;
 - iv. The sharing of selected trading information as appropriate which can collectively help companies produce suitable products for the Chinese market as well as more precise production and sales forecast planning information;
 - v. The option to use Alipay payment solutions to retail, hospitality industry and tourism associations, share local resources and networks to provide better services for Chinese tourists to increase the volume of New Zealand physical stores using the Alipay solution;
 - vi. The option to use Alipay in the finance, payments and tourism industries;
 - vii. The option to use Alipay to deliver retail and brand campaigns across New Zealand;
 - viii. Any Alipay solution that supports the provision of a tax refund service to Chinese tourists.

CLAUSE 3 - CONTACTS

All parties will provide key contact points in the offices of NZTE Shanghai and Alibaba to work on the cooperation set out in this MoA.

CLAUSE 4 – VALIDITY

4.1 Subject to early termination in accordance with Clause 8, this MOA shall take effect from the date of this MOA and will remain valid for twelve (12) months. The Parties may extend this MOA once for a period of twelve (12) months by agreement in writing.

4.2. This MOA may be amended in writing signed by all Parties.

CLAUSE 5 – NON-DISCLOSURE

5.1. "Confidential Information" means the terms of this MOA and all information concerning the Parties or any Party to which another Party is provided access by virtue of its activities as a result of this MOA. Confidential Information does not include information that has been publicly disseminated in writing by the owner, in which the receiving Party can show it knew prior to disclosure, or which was rightfully received by a Party from a third party without restriction. Confidential Information acquired hereunder by any Party will be treated as proprietary information of the disclosing Party and shall not be used for any purpose other than the collaborations between the Parties or disclosed to any third party, except such Party's professional advisers, affiliates, consultants, or its employees on a "need to know" basis. No Party shall, without the prior written consent of other Parties, make any public announcement or issue any press release disclosing Confidential Information. However, any party may provide any Confidential Information, when required, due to a determination of governmental bodies or regulators in the exercise of their supervision or investigative jurisdiction

5.2. No Confidential Information may be disclosed or used outside of the intended purposes unless written consent is obtained from the disclosing Party.

CLAUSE 6 – FINANCIAL RESOURCES

6.1. Each Party shall be responsible for any and all costs for implementing their respective obligations pursuant to this MOA.

CLAUSE 7 – PUBLIC ANNOUNCEMENT

7.1. The Parties can carry out public relations activities related to the subject of this MOA, provided that each Party shall seek all the other Parties' approval in writing or by e-mail before making any announcement that includes the trademark, name or logo of the other party in whole or in part, or any references to the content of any specific provisions of this MOA.

CLAUSE 8 – GOVERNING LAW AND JURISDICTION

8.1 The Parties may terminate this MOA at any time by providing one month's notice.

8.2 This MOA shall be governed by and construed in accordance with the laws of Hong Kong Special Administrative Region.

8.2 The Parties agree to the following provisions regarding dispute resolution should a controversy arise under this MOA:

I) The Parties intend to resolve all controversies under this MOA informally through correspondence, oral communications, and informal meetings.

II) If the method described in the above paragraph proves insufficient to resolve a controversy, the Parties agree that the signatories to this MOA, or their replacement, shall provide a written description of the controversy to the other Parties and a suggested outcome. The Parties will review the information provided and shall attempt in good faith to come to an agreement on the issue through correspondence, oral communications, or informal meetings.

III) If the methods described in the above paragraphs prove insufficient to resolve a controversy, the Parties may agree to submit the dispute to binding arbitration to take place in the

Hong Kong International Arbitration Centre, under the Rules of Arbitration of the International Chamber of Commerce (ICC) by three arbitrators appointed in accordance with the ICC Rules. For any reason, which shall include but not be limited to the partial or full enforcement of a binding judgment by the arbitrators, either Party may enter said judgment or an award of the arbitrators in any court of competent jurisdiction in the country of the Party against whom the judgment or award is to be enforced.

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I N W I T N E S S whereof the Parties have executed this MOA on the aforementioned day and year.

For and on behalf of
ALIBABA.COM SINGAPORE
E-COMMERCE PRIVATE LIMITED

s9(2)(a)

For and on behalf of
NEW ZEALAND TRADE AND ENTERPRISE

Name:
Title:

s9(2)(a)

Hong Kong International Arbitration Centre, under the Rules of Arbitration of the International Chamber of Commerce (ICC) by three arbitrators appointed in accordance with the ICC Rules. For any reason, which shall include but not be limited to the partial or full enforcement of a binding judgment by the arbitrators, either Party may enter said judgment or an award of the arbitrators in any court of competent jurisdiction in the country of the Party against whom the judgment or award is to be enforced.

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I N W I T N E S S whereof the Parties have executed this MOA on the aforementioned day and year.

For and on behalf of
ALIBABA.COM SINGAPORE
E-COMMERCE PRIVATE LIMITED

s9(2)(a)

Name:
Title:

Maggie Zhou
Managing Director for
Australia + New Zealand
for Alibaba Group.

For and on behalf of
NEW ZEALAND TRADE AND ENTERPRISE

s9(2)(a)

Name:
Title:

Peter Chrisp
CEO
NZTE.