

September 25, 2020  
House Judiciary Committee  
2138 Rayburn House Office Building  
Washington, D.C. 20515

Dear Members of the House Judiciary Antitrust Subcommittee,

Your [July hearing](#) provided a necessary and welcome opportunity to discuss the urgent questions around market dominance that companies like Amazon have staked out. However, many Amazon sellers have voiced concerns that the hearing did not address the competition issues that have created such an uneven playing field.

As the Subcommittee prepares to release its report on bringing accountability to Big Tech, I urge you to consider the experience of sellers and directly address the power that Amazon has amassed at the expense of these small businesses.

Discussion about Amazon and antitrust often narrowly focuses on the shoppers purchasing goods its platform, while too often ignoring the third-party sellers who are core customers of Amazon's services. These third-party sellers — who use the Amazon marketplace to [sell products](#) directly to consumers — give a percentage of every sale to the Amazon marketplace, purchase sponsored ads including Amazon via the demand side platform and rely on Fulfillment By Amazon (FBA) for their shipping and logistics needs, all in the name of building a successful brand on the Amazon marketplace.

Third-party sellers now make up [more than half](#) of all Amazon gross merchandise sales, a dramatic transformation that demonstrates the important role these sellers have played in powering the company's explosive growth. And Amazon has significant incentives to continue growing its third-party marketplace: According to e-commerce experts, for every dollar that shoppers spend on products from third-party merchants [as much as 50 cents](#) goes back to Amazon.

However, as third-party sales have grown on the Amazon platform, so too have the company's private label products. Amazon now has hundreds of private label products across nearly all product categories, which gives the company tremendous opportunity to experiment and gain a competitive advantage. In fact, in the past two years alone, the number of best-selling AmazonBasics has [more than doubled](#).

Amazon and its executives have long maintained, even under sworn testimony, that the company [maintains a barrier](#) between third-party sellers and its own products and does not use data from these sellers to inform its product strategy. Yet reports have continued to emerge that draw these claims into question. A Wall Street Journal investigation [exposed](#) that “employees often consulted sales information on third-party vendors when developing private-label merchandise.”

Meanwhile, many antitrust advocates have also warned that the concept of Buy Box Suppression, by which Amazon removes the option for sellers to allow consumers to more easily purchase their goods if it sees a seller's product being sold for less on a competitor e-commerce

site, amounts to modern price fixing. Amazon prohibiting sellers from offering lower prices on other online retail platforms clearly hurts consumers if the only way for sellers to regain their listing on Amazon is to raise their prices on other platforms or remove their listings all together, therefore limiting competition.

Other punishment by Amazon could include not being able to drive traffic to an Amazon listing which reduces a product's visibility or removing important sale information from the listing as well as removing one-click shopping. Sellers have even reported having their listings deleted when they refuse to match pricing. It is apparent that Amazon wields an unfair competitive advantage over its competitors when sellers feel forced to match pricing in order to continue selling on the platform.

Yet in the face of these issues, third-party sellers have few avenues to seek relief from Amazon if they feel that they have been unfairly delisted, have had their account suspended, or otherwise negatively targeted by the company.

Unfortunately, given Amazon's massive market power and the control it wields over its marketplace, sellers are understandably reluctant to come forward and directly address these issues. In their place, the Subcommittee must provide recommendations that speak to these issues on sellers' behalf and how to handle Amazon's clear competitive advantage. A digital marketplace making massive gains at the expense of third-party sellers and ultimately consumers.

The Subcommittee has a tremendous opportunity to lay the groundwork for the future of our competitive environment and to better address the challenges of the modern digital marketplace, and Amazon must be a central focus of that discussion. At a time when many Amazon sellers — many of whom are small businesses with their own employees — are struggling to stay afloat, there is an urgent need for policymakers to ensure there's a level playing field for competition.

Mr. Bezos and Amazon had an opportunity in July to set the record straight on how it uses third-party seller data. He failed to adequately do so. Now, amid these complicated and fraught times for third-party sellers, there is more urgency than ever to demand truthful answers.

Sincerely,



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Former Top 200 Amazon Seller