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THE PEOPLE VS. AMAZON

OPEN MARKETS INSTITUTE & INSTITUTE FOR LOCAL SELF-RELIANCE

AMAZON IS A MONOPOLY

This summer, the House Judiciary Subcommittee on Antitrust took historic action to restore open markets and economic democracy with its, "Investigation of Competition in Digital Markets," and identifying Amazon as a powerful, predatory monopoly.

Amazon has expanded its stranglehold over an immense and rapidly growing swath of the U.S. economy by abusing its power as a gatekeeper, using the power of its retail monopoly to take control of other industries, and a host of other anti-competitive conduct. In doing so, Amazon exploits independent businesses, suppliers, distributors, workers, and consumers.

The following summary of the majority's report uses key excerpts to tell the story of Amazon's dominance and the associated harms of allowing its power to remain unchecked, while also describing the steps we must take to break its control over our economy and our democracy.

AS THE HOUSE JUDICIARY SUBCOMMITTEE ON ANTITRUST REPORT DETAILS:

"Amazon is the dominant online marketplace. It reportedly controls about 65% to 70% of all U.S. online marketplace sales."

"Amazon's market power is durable and unlikely to erode in the foreseeable future."

"Amazon expanded its market power through avoiding taxes, extracting state subsidies, and engaging in anti-competitive conduct."

RETAIL AND THE AMAZON MARKETPLACE

The report makes clear that Amazon dominates online retail shopping through unfair and anti-competitive tactics. Through these tactics, Amazon abuses its suppliers and the small businesses that rely on its platform to reach customers, and crushes companies that compete with it.

"The platform's market power is at its height in its dealings with third-party sellers, as well as many of its suppliers, which Amazon refers to as vendors." P255

"Several market participants told the Subcommittee that they "live in fear" of the platforms. One said, "It would be commercial suicide to be in Amazon's crosshairs . . . If Amazon saw us criticizing, I have no doubt they would remove our access and destroy our business." P373

"Amazon's leverage over suppliers gives it the ability to "break" minimum advertised pricing rules and undercut competing sellers on price. In contrast, third-party sellers must abide by the rules." P258-259



"A former Amazon employee confirmed that it was not uncommon for Amazon to use its brand standards policy to shut down a brand's third-party seller account and force brands into an exclusive wholesaler relationship." P259

"Amazon's internal documents recognize that entry into online commerce "require[s] significant incremental investments in brand development, inventory, and marketing/customer acquisition." P259

"Further, Amazon expanded its market power through avoiding taxes, extracting state subsidies, and engaging in anti-competitive conduct—tactics that have given the company an unfair advantage over actual and potential competitors." P260-261

HOW AMAZON BUILT AND GREW ITS MONOPOLY

The report details a series of mergers and acquisitions that Amazon used to increase its market power while also bullying small businesses, spying on and copying sellers' best products, forcing sellers to use its fulfillment and advertising services, and controlling its competitors' pricing.

"Amazon leverages its access to third-party sellers' data to identify and replicate popular and profitable products from among the hundreds of millions of listings on its marketplace....[A]ccording to a July 2019 report, a former employee who worked in product management told The Capitol Forum, "I used to pull sellers' data to look at what the best products were when I was there ... That was my job." P276

"In addition to collecting data relating to sales, Amazon may also be able to reverse engineer third-party sellers' cost structures through the tools that it offers sellers to track profits, costs, ad spend, and other expenses, as well as fulfillment services through Fulfillment by Amazon (FBA)." P281

"Due to a lack of alternatives, third-party sellers have no choice but to purchase fulfillment services from Amazon. More than 73% of all Marketplace sellers worldwide reportedly rely on FBA services." P289

"[T]he evidence examined during the investigation demonstrates that Amazon's acquisitions—including of its direct competitors—have been key to Amazon's attainment, maintenance, and expansion of market power." P267

"A decade ago, Amazon acquired two of its direct competitors: Zappos and Quidsi. Documents reviewed by Subcommittee staff show that Amazon viewed both online retailers as competitive threats prior to acquiring them." P262

"Amazon's expansion into a diverse array of business lines—from brick-and-mortar supermarkets to home security—has reinforced its significant stockpile of consumer data." P262

"Underlying Amazon's public-facing rhetoric is the reality that it views many of the sellers on its platform as competitors. In its internal documents, Amazon refers to third-party sellers as "internal competitors." P267

HOW AMAZON BUILT AND GREW ITS MONOPOLY CONT.

"As part of its business strategy, Amazon has historically placed a higher premium on long-term growth at the expense of short-term profitability. [...] Amazon has adopted a predatory-pricing strategy across multiple business lines at various stages in the company's history." P297

"In 2009, Bezos and other Amazon executives noticed and began discussing the rise of Diapers.com, a competitor in the baby and personal-care product markets. What followed was a year-long price war, ending in Amazon's eventual acquisition of Quidsi, the parent company of Diapers.com." P299

"In Amazon's effort to "own the smart home," for example, Amazon sometimes prices its Echo Speaker below-cost. Market estimates suggest that Amazon's Echo Dot third generation materials cost is \$37.68, while the company listed it at \$22 during its 2019 Prime Day." P301

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Amazon has adopted a predatory-pricing strategy across multiple business lines at various stages in the company's history

List of acquisitions by Amazon 2010 - 2020

Company	Acquired on
Touchco	February 3, 2010
Woot	July 2, 2010
Amie Street	September 8, 2010
BuyVIP	October 4, 2010
Quidsi	November 8, 2010
Toby Press	November 18, 2010
LoveFilm	January 20, 2011
The Book Depository	July 4, 2011
Pushbutton	July 28, 2011
Yap	September 2011
Double Helix Games	September 5, 2011
Teachstreet	February 2, 2012
Kiva Systems	March 19, 2012
Evi	April 17, 2012
Avalon Books	April 17, 2012
UpNext	July 2, 2012
IVONA Software	January 24, 2013
Goodreads	March 28, 2013
Liquavista	May 13, 2013
TenMarks Education	October 10, 2013
ComiXology	April 10, 2014
Amiato	May 2014
Twitch Interactive	August 25, 2014
Rooftop Media	August 25, 2014
GoodGame	December 9, 2014
Annapurna Labs	January 22, 2015
2lemetry	March 12, 2015
Shoefitr	April 10, 2015
ClusterK	April 29, 2015
AppThwack	July 14, 2015
Elemental Technology	September 3, 2015
Safaba Translation	September 25, 2015
Biba Systems	September 2015
Orbeus	December 1, 2015

Company	Acquired on
Colis Privé	January 11, 2016
NICE	February 12, 2016
Emvantage Payments	February 16, 2016
Cloud9 IDE	July 14, 2016
Curse, Inc.	August 16, 2016
Westland	October 28, 2016
Partpic	November 2, 2016
harvest.ai	January 9, 2017
Thinkbox Software	March 6, 2017
Do.com	March 8, 2017
Whole Foods Market	June 16, 2017
Souq.com	July 3, 2017
Graphiq	July 20, 2017
GameSparks	July 28, 2017
Wing.ae	September 6, 2017
Body Labs	October 3, 2017
Goo Technologies	November 28, 2017
Dispatch	November 2017
Blink Home	December 2017
Sqrrl	January 23, 2018
Ring	February 27, 2018
PillPack	June 28, 2018
Tapzo	August 28, 2018
CloudEndure	January 10, 2019
TSO Logic	January 14, 2019
Eero	February 11, 2019
Canvas Technology	April 10, 2019
Sizmek Ad Server	May 31, 2019
Bebo	June 18, 2019
E8 Storage	July 31, 2019
IGDB	September 17, 2019
INLT	September 24, 2019
Zoox	June 26, 2020

ALEXA, RING AND THE INTERNET OF THINGS

Investigators found that Amazon’s voice assistant product, Alexa, and its video monitoring counterpart, Ring, have become key to Amazon’s strategy of consumer lock-in and monopoly expansion. Amazon acquired Ring and the Alexa technology by buying nascent rivals, then expanded their power in the market through many of the same tactics it used to grow and reinforce its marketplace monopoly.

“The Echo collection of smart speakers—the hub of Alexa’s ecosystem—captures over 60% of the smart speaker market in the U.S.” P306

“One of Amazon’s strategic goals for Alexa has been to use its voice assistant to reinforce the company’s dominance in e-commerce and strengthen its presence in offline retail.” P308

“Amazon acquiring Ring and Blink was in part to expand and reinforce its market power for its other business lines. Internally, Amazon executives discussed how home surveillance acquisitions would help them implement unattended package delivery. Similarly, they discussed the idea that the acquisitions would help Amazon develop its Alexa Doorbell application program interface, an AWS service that allows Alexa Skills developers to build apps that respond to a ringing doorbell.” P309

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Amazon favors its services in Alexa by making them defaults for common voice commands.



“Amazon’s internal documents show that, in large part, it purchased Ring to capture the company’s share of the smart home security market. In December 2017, Mr. Bezos wrote to Dave Limp, the Senior Vice President of Devices & Services, that Amazon was really “buying market position” by acquiring Ring.” P308-309

“The voice assistant market has strong entry barriers due to the significant investments required to compete in the market. These include investments in artificial intelligence, voice-enabled hardware, and cloud computing infrastructure, which are critical inputs Amazon has been developing for years.” P307

“Amazon has also imposed barriers to entry for other voice-enabled device manufactures through predatory pricing of Alexa-enabled devices, and through its dominance as a leading distribution channel for smart home devices.” p 310

“Amazon favors its services in Alexa by making them defaults for common voice commands. For example, Amazon.com is the default store for basic voice commands related to shopping. “Alexa, add milk to my cart” adds milk to the user’s Amazon shopping cart.” P310

“Similarly, a study conducted by Bain & Company found that for categories in which Amazon offered a private-label product, Alexa recommended those products 17% of the time, despite its private-label goods representing only about 2% of total volume sold.” P311

AMAZON WEB SERVICES

Investigators reviewed evidence suggesting that Amazon uses its powerful cloud computing platform to finance its below-cost pricing of other goods and services, and to track the activities of nascent companies and technologies it then copies to make its own competing products.

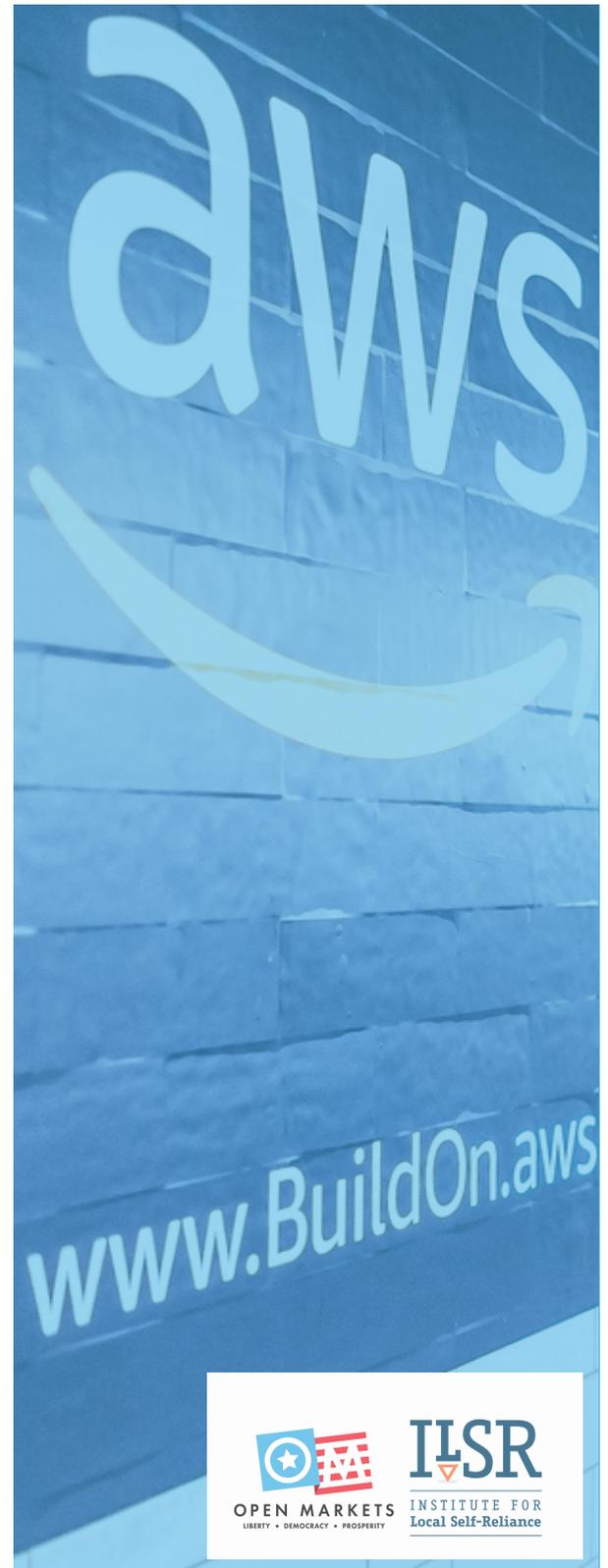
“Amazon has a “lion’s share of the government cloud infrastructure market...AWS is considered to have the largest collection of cloud offerings...The AWS Marketplace enjoys over 1,300 vendors as of 2018, and over 9,000 products, functioning as the largest cloud marketplace in the sector.” P318-319

“AWS is also positioned to use customer and seller data from one line of business to inform decisions in other lines of business, analogous to its conduct in Amazon Retail. At least one market participant who spoke with Subcommittee staff had evidence that AWS engaged in this cross-business data sharing.” P323

“AWS provides Amazon with unparalleled insights into the trajectory of startups using its services, information that it can use to guide acquisitions and to replicate promising technology.” P323

“Through a combination of self-preferencing, misappropriation, and degradation of interoperability, Amazon has sought to eliminate cross-platform products with Amazon-only products.” P325

“The Subcommittee’s investigation uncovered evidence relating to numerous instances in which Amazon has offered proprietary managed services based on knock-offs of open-source code.” P327



HOW TO BREAK AMAZON'S MONOPOLY STRANGLEHOLD

The report delivered a **list of remedies** that would undo Amazon's stranglehold over our economy. That list begins with structural separation - splitting up Amazon's various lines of business. Doing so would restore democracy to industries Amazon now dominates.

FAIR COMPETITION

Pass legislation that draws on two mainstay tools of the antimonopoly toolkit: structural separation and line of business restrictions. P379

Extend the Sherman Act to prohibit abuses of dominance. P396

Clarify that it is illegal for monopolies to require users to buy or use a separate product in order to access its monopoly. P398

MERGERS

Make merger laws easier to enforce by establishing bright-line rules for merger enforcement. Under those rules, mergers that give a company market power or that significantly increase concentration would be prohibited. P393

Strengthen the antitrust laws to prohibit acquisitions of potential rivals and nascent competitors. P394

NONDISCRIMINATION

Establish nondiscrimination rules that would require dominant platforms to offer equal access and price for use of their platforms. These rules would promote competition and innovation online. P382

Clarify that proof of recoupment is not necessary to prove predatory pricing or predatory buying, and override past Supreme Court decisions limiting the ability to enforce against predatory pricing. P397

“Both structural separations and line of business restrictions seek to eliminate the conflict of interest faced by a dominant intermediary when it enters markets that place it in competition with dependent businesses. In certain cases, structural separations have also been used to prevent monopolistic firms from subsidizing entry into competitive markets (...). By setting rules for the underlying structure of the market—rather than policing anti-competitive conduct on an ad hoc basis—structural rules are easier to administer than conduct remedies, which can require close and continuous monitoring.” P379-381