

European Commission accuses Amazon of violating antitrust rules

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20 November 2020

The European Commission (EC) has accused Amazon of violating antitrust rules by using third-party sellers' non-public data to benefit its own retail business. The charge appears in a November 10 statement following an investigation that the EC's antitrust regulators initiated in July 2019.

The European proceedings against Amazon are a shot across the bow of American imperialism. The national bourgeoisies of Europe are reacting to the provocative "America First" trade war policies of the Trump administration and threatening to retaliate, asserting their own interests.

The EC also has opened a second investigation into whether Amazon selects vendors to appear in its "Buy Box" in a way that benefits its own retail, logistics, or delivery services. The Buy Box appears prominently on Amazon's site and allows customers to add a specific seller's item to their shopping carts.

In describing Amazon's anticompetitive practices, the statement specifically refers to France and Germany, which are Amazon's biggest European markets. As governments have shut down nonessential businesses during the pandemic, customers have increased their online shopping. Among online shoppers, more than 70 percent in France and more than 80 percent in Germany have bought an item on Amazon during the past year, according to Margrethe Vestager, the European Union commissioner responsible for competition.

Amazon is a trillion-dollar multinational conglomerate that not only dominates commerce over the internet, but also develops its own products (such as e-readers, clothing, and toys) for sale on that same market. Since Amazon not only sells products but controls the marketplace where those products compete with those of other businesses, it has a colossal advantage over its competitors.

As a marketplace, Amazon has access to third-party

vendors' non-public business data. It can view, for example, the number of a given product that has been ordered and shipped, a seller's revenue, information about shipping, and data on sellers' past performance. The EC found that such marketplace data have been shared with Amazon's retail business and used as a basis for decisions about its own products. "The use of non-public marketplace seller data allows Amazon to avoid the normal risks of retail competition," according to the EC.

The other investigation focuses on the Buy Box, which shows a single vendor's offer for a given product. Vendors compete to have their offers featured in the Buy Box, which allows them to reach users of Amazon Prime (Amazon's customer loyalty program), who tend to spend more and shop more often than non-Prime customers. About 80 percent of sales on Amazon result from the Buy Box, according to industry experts, and the number of Prime users is growing. The commission is investigating whether the criteria Amazon uses to select sellers for this box favor Amazon's own retail business or the sellers that use Amazon's logistics and delivery services.

Not surprisingly, Amazon released a statement expressing its disagreement with the EC's allegations, denying that it views individual sellers' data but admitting that it sometimes views "aggregate" data.

The company interprets the terms "individual" and "aggregate" in creative ways. For example, because the company Fortem represented 99.95 percent of sales of car trunk organizers (and not all sales), Amazon considered data related to that company to be aggregate data, according to the *Wall Street Journal*. Amazon used Fortem's non-public data to develop its own private-label version of the same product.

What is more, former Amazon employees have admitted publicly that the company engages in this practice. One of the company's former product management workers 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.”

Other public information substantiates the EC’s claims about Amazon’s manipulation of the Buy Box. Jeff Bezos, the company’s CEO and the world’s richest man, admitted during a US Congressional hearing in July that the criteria for spotlighting sellers in the Buy Box “indirectly” favor product offers that can be shipped with Prime.

European regulators are not alone in scrutinizing Amazon. The United States Congress and the Federal Trade Commission (FTC) also are investigating the company’s relationship with third-party vendors. In a report that it issued in October, the House Judiciary antitrust subcommittee found that Amazon has monopoly power over third-party sellers. In testimony before the subcommittee, one such seller said that he had been forced out of the business after Amazon copied his products (including even their color scheme), sold its versions at lower prices, and featured them in the Buy Box.

Other third-party vendors told the antitrust subcommittee that they have “no choice” but to pay for Fulfillment by Amazon, the company’s logistics and delivery service. Using this service makes a product eligible to be sold to Prime customers and helps companies “to maintain a favorable search result position, to reach Amazon’s more than 112 million Prime members, and to win the Buy Box,” according to the subcommittee’s report.

Like the subcommittee, the FTC has interviewed Amazon’s third-party sellers. However, few details about its investigation are available, and the FTC has taken no meaningful action to restrain the growth of the conglomerate or its domination over the American market.

The United States has various laws, dating from the late-19th and early-20th centuries, that restrict the formation of monopolies and outlaw unfair competition. But this regulatory framework is effectively a dead letter. There has been little in the way of enforcement action for nearly four decades, after AT&T was broken up in 1982. The Amazon conglomerate, controlled by Bezos, invades and conquers one sector of the economy after another with impunity.

If the EC concludes that Amazon has broken antitrust rules, it could fine the company as much as 10 percent of its annual worldwide revenue. Such a fine would equal

\$28 billion if based on 2019 revenues and \$37 billion if based on the company’s revenue forecasts for this year. For context, the latter figure is approximately equal to the gross domestic product of Paraguay in 2019.

An alternative would be for the EC to demand behavioral remedies in the form of prohibitions on certain business conduct. Amazon could well decide to ignore such remedies and simply pay fines if it is caught. The vast company can afford to treat the occasional fine as a cost of doing business. It also is entirely possible that the EC will come to a settlement with Amazon or drop its case entirely.

The investigations by the EC and by the Congressional subcommittee underscore Amazon’s incredible size and dominance. During the second quarter of 2020, Amazon had an operating profit of \$5.8 billion. In October, Amazon’s share price reached approximately \$3,000, which gave it a market valuation of about \$1.5 trillion. This valuation is greater than that of Wal-Mart, Target, Salesforce, IBM, eBay, and Etsy put together, according to the subcommittee’s report.

Amazon’s dominance is neither the result of Bezos’s genius nor a fluke. It is the result of an objective process. “Free competition gives rise to the concentration of production, which, in turn, at a certain stage of development, leads to monopoly,” wrote Vladimir Lenin in *Imperialism, the Highest Stage of Capitalism*. “The general framework of formally recognized free competition remains, but the yoke of a few monopolists on the rest of the population becomes a hundred times heavier, more burdensome and intolerable.”

The solution is not to rely on capitalist governments to restrain this process with anti-monopoly regulations. Instead, workers must openly declare as their aim the transformation of technology monopolies like Amazon into public utilities democratically controlled by the working class that can be mobilized to satisfy social need around the world, rather than further enriching the world’s richest man.



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