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July 26, 2019

VIA EMAIL

The Honorable David N. Cicilline
Chairman
Subcommittee on Antitrust, Commercial
and Administrative Law
Committee on the Judiciary
2233 Rayburn Building
Washington, D.C. 20515

Dear Chairman Cicilline:

We appreciate the opportunity to provide additional information on these important topics. We understand completely that answers provided should be responsive and accurate, and the testimony we provided at the recent hearing met that standard. Indeed, we took great care to answer directly the Committee's questions. We appreciate your written questions and provide below answers that are consistent with, and elaborate upon, the answers provided at the hearing.

Amazon is absolutely committed to engaging constructively with members of the Committee and their staff. We are pleased to provide this information to demonstrate that our commitment to customers is procompetitive, resulting in benefits for consumers, sellers, workers, and the economy more broadly. We remain available to discuss these answers and to answer any other questions you or your staff may have.

1. Does Amazon use any of the data (including aggregate data on specific product categories) it collects on Marketplace transactions to inform its private label strategy?

Yes, while we prohibit in our private label strategy the use of data related specifically to individual sellers, like other retailers we use aggregated store data (e.g., total sales) and customer shopping behavior (e.g., search volume) to identify categories and products with high customer demand over a given time period. Use of aggregated store data about customers' shopping behavior is far from novel among retailers with a private label business. Many retailers, including large retailers with extensive private brand offerings and retailers with marketplaces, know the sales volume for products in their stores.¹ Customers' shopping behavior in our store is just one of many inputs to Amazon's private label strategy. We also use other factors employed across the retail industry, such as fashion and shopping trends highlighted in the press and on social media, suggestions from our manufacturers for new or complementary product lines, and gaps in our product assortment relative to our competitors.

It is important to note that private label products are a common retail practice that is good for customers and competition. Whether they are shopping at the corner drugstore, the grocery store, or many other stores online and off, customers actively seek out private label products because they provide great quality at great value. Like other retailers, we seek to grow the private label selection in our store to satisfy that widespread customer expectation and demand. Still, despite launching our private label business in 2005, Amazon's private label products lag far behind those of our rivals; private label sales account for approximately 1% of our total sales, while retailers like Walmart, Costco, Kroger, Target, Trader Joes, and Walgreens have private label products that represent 18% to 85% of their sales.

Some of the most important data for the purposes of determining which products are selling well in our store is public. And, unlike most retailers, we publicly share information about the popularity of products in our store (see screenshot below). Anyone can visit our product detail pages to learn a product's best seller ranking, in addition to its product reviews and star ratings, and make a determination on all of those bases about whether a product is selling well.

In addition, we provide third party sellers in our stores with access to data and tools designed to help them develop and sell their own products successfully. These tools and the other support Amazon provides to sellers are effective, as illustrated by the success of independent sellers – mostly small- and medium-sized businesses – who make up nearly 60% of physical gross merchandise sales in our store and who are growing those sales nearly twice as fast as Amazon's own corresponding sales. A few examples of these tools include:


- an “Item Comparison Report” that shows other products Amazon customers viewed in the same session as the brand owner's product;

¹ We are unaware of whether these other retailers similarly have in place policies to prohibit the use of data related specifically to individual sellers in their product launch strategy.

- a “Search Terms Report” showing which search terms customers are using to find their products;
- a “Brand Health Dashboard” that provides actionable insights into the health of their brand in the Amazon store and actionable recommendations;
- a “Customer Reviews Page” that allows brand owners to view all product reviews on their products to correct defects, identify negative reviews trends, and report abuse;
- a “Market Basket” report which shows the top items that customers bought along with a brand owner’s item; and
- an “Alternative Purchase” report that shows the top items customers bought after looking at, but not purchasing, the brand owner’s product.

Product information

Color:Color 05

Product Dimensions	18 x 18 x 0.1 inches
Item Weight	2.08 ounces
Shipping Weight	4 ounces (View shipping rates and policies)
Manufacturer	Moslion
ASIN	B07CK6QX82
Item model number	PX145G-S01S09P0696
Customer Reviews	 31 customer reviews 4.2 out of 5 stars
Best Sellers Rank	#92,980 in Home & Kitchen (See Top 100 in Home & Kitchen) #950 in Throw Pillow Covers

2. **Is it true that the only information about Marketplace sales that Amazon uses to inform any decisions about its private label strategy is information that Amazon makes publicly available about the sales rank of each product?**

No, as noted in our response to Question 1, we use aggregated store data on total sales and search volume for categories and products (unless the product is only offered by a single seller, in which case we do not use that data). We also use data that we make publicly available, including sales rank, product attributes, and customer ratings. In addition, like our competitors, we use general market research.

3. **If a product on Amazon is being sold at the same price both by Amazon and by a Marketplace seller who is enrolled in Fulfillment by Amazon, then Amazon’s algorithm does not in any way favor the Amazon product when assigning the Buy Box. Is this statement true?**

Yes, the featured offer algorithm does not favor any particular type of offer, but rather seeks to determine which offer to highlight based on a prediction of which offer customers would choose if they were to compare all offers in detail. If our prediction is that the customer would likely prefer a product from a Marketplace seller over the offer from Amazon, then we feature the product from the Marketplace seller. We constantly refine our predictions to reflect customer preferences, and look to factors beyond price, including fulfillment speed, delivery speed, Prime eligibility, and seller performance.² In the rare instances that our algorithmic weighting of these factors results in a tie in our prediction between an offer from Amazon retail and a product in Fulfillment by Amazon, we again endeavor to predict accurately customers' demonstrated preferences and feature the Amazon retail offer because our customers show a preference for products sold directly by Amazon.

Moreover, we make all offers easily available for all customers to shop. Customers may compare the closest competing offers and add them directly to their shopping cart via the "Other Sellers on Amazon" option (as shown in the screenshot below), which is displayed on the product detail page directly below the featured offer. Customers may also browse all offers via the offer listing page, accessible via a hyperlink below the featured offer. There, customers may compare offers, sellers, shipping speeds, and prices. Our data also demonstrate that customers who compare the available offers overwhelmingly ultimately select the featured offer, further confirming that our criteria for selecting the featured offer accurately predict customer preference.

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² For purposes of the featured offer algorithm, we use several metrics to measure seller performance, including order defect rate, cancellation rate, and late shipment rate.

4. If a product on Amazon is being sold at the same price both by a Marketplace seller who is enrolled in Fulfillment by Amazon (FBA) and by a Marketplace seller who is not enrolled in FBA, then Amazon’s algorithm does not in any way favor the FBA-eligible product when assigning the Buy Box. Is this statement true?

Yes, the featured offer algorithm does not favor any particular type of offer, rather it seeks to determine which offer to highlight based on a prediction of which offer customers would choose if they were to compare all offers in detail. As explained in response to Question 3, that algorithm seeks to highlight the offer a customer would choose based on factors beyond price, including fulfillment speed, delivery speed, Prime eligibility, and seller performance.

Amazon has invested tens of billions of dollars in developing a world-class fulfillment network and offers that network to its selling partners through its FBA program. As a result of these investments, products offered through that network perform better on those factors than products fulfilled through other methods; fulfillment by Amazon generally provides a better and more reliable experience for our customers than fulfillment through other means, which is reflected in the featured offer algorithm.

5. What percentage of the U.S. online retail market does Amazon capture?

While the rapid proliferation of online and hybrid selling models by retailers of all shapes and sizes precludes the notion that there is a separate online retail market, according to public estimates, which we have not verified and which suffer from reliability concerns we identify below, our stores account for approximately 38% of online retail sales in the U.S.³ That estimate is high because, among other things, it represents all sales in our stores, including the sales of third parties, whose revenue is their own and who make their own pricing and inventory decisions. Retail share figures, particularly related to online sales, are necessarily imprecise due to the inherent limitations of estimating retail sales (the denominator), which occur in a varied, fragmented, and dynamic marketplace. For example, there are over 1 million retail establishments in the U.S. with thousands of new stores opened in 2018.⁴ Entry is common and constant, particularly online where retailers commonly open their own online stores to make their selection readily visible and available to sell direct to customers whether or not they also elect to shop in their physical locations.

And despite the prevalence of online shopping across all retail, the vast majority of retail sales — 90% according to the U.S. Census Bureau — still occurs in brick-and-mortar stores. Amazon’s percentage of global retail is about 1%, and our percentage of U.S. retail is less than 4%, with Walmart being about three times our size. These are the most appropriate and relevant measures of share because online and offline retail directly compete. For example, a customer buying a microwave may buy online from an online retailer or directly from the manufacturer

³ <https://www.bloomberg.com/news/articles/2019-06-13/emarketer-cuts-estimate-of-amazon-s-u-s-online-market-share>. Another recent analyst reports Amazon’s share of online retail sales to be 20%. As with other public estimates, we have not verified that figure. See <https://www.thestreet.com/markets/dont-overlook-amazon-ecommerce-15029112>.

⁴ <https://nrf.com/insights/economy/state-retail>; <https://nrf.com/blog/no-sign-retail-apocalypse>

and have it delivered, buy online and pick it up in a store, buy from a big box store, or buy from a specialty retailer, hardware store, or any number of other options. Customers are constantly comparing prices and offerings across retailers, online and offline, and, as the example demonstrates, customers see and routinely use these channels as substitutable ways to get the same products. Studies, such as MIT and Harvard’s “Billion Prices Project,” have shown prices online and offline have largely converged, demonstrating the direct competition for customers across channels.⁵ As the recent earnings reports of Walmart and Best Buy attest, the resounding success of options like “buy online pick up in store” further illustrate why any ostensible online vs. offline retail distinction is not meaningful.

6. What percentage of the U.S. market for cloud computing services does Amazon Web Services capture?

While we vigorously dispute the competitive significance of shares for cloud computing services or that it is a market, and we do not have our own independent economic analysis, in response to the specific question, based on estimates from Gartner, a global research and advisory firm, of the spend in the U.S. on cloud computing services in 2018, that percentage is approximately 24%.⁶ “Cloud computing services” refers to delivering information technology (IT) services over the internet. Gartner’s number includes infrastructure services, such as storage and compute functionality, application infrastructure services, such as database services and system management and security services, and software services, like business productivity, business analytics, and word processing software. AWS’s cloud-based offerings vigorously and directly compete with non-cloud based offerings. For example, the Amazon Aurora cloud based database faces direct competition from non-cloud based databases including Microsoft SQL Database and Oracle. AWS’s most successful cloud offerings are IT infrastructure services, and within that narrow definition AWS is the leader, representing close to half of global spend on cloud infrastructure services based on Gartner’s estimates and depending on how cloud infrastructure services are defined,⁷ though it is important to note that cloud infrastructure services directly compete with a variety of other non-cloud options that allow customers to store and process their data and files.

It is also important to note that from the perspective of a customer considering substitutable products and computing services, cloud services are only one way of addressing needs that are primarily served by traditional IT vendors that provide “on-premises” IT infrastructure. Such “on-premises” IT infrastructure includes on-premises hardware, private data centers, hosted installations, co-located data centers, and managed services. The vast majority of IT spend still goes toward on-premises technology. Globally, the amount spent on IT Services in 2018 was \$3.65 Trillion, and \$1.16 Trillion in the U.S. according to Gartner.⁸ Based on those estimates, AWS represented less than 1% of IT spending globally and less than 2% in the United States.⁹

⁵ <http://www.thebillionpricesproject.com/our-research/>

⁶ Source - Gartner Estimates, July 2019.

⁷ Source - Gartner, Market Share Analysis, IaaS and IUS, Worldwide, 2018.

⁸ Source- Gartner Market Databook, 2Q19 Update.

⁹ Source- Gartner Forecast- Public Cloud Services, Worldwide, 2017-2023, 1Q19 Update.

7. When did Amazon enter the cloud computing market?

We launched AWS in 2006 as a new way to address the needs of IT consumers. Today, there are many companies offering diverse cloud computing services that lower the cost of meeting IT needs and reduce the investment needed for innovation. All of these cloud-based solutions are competing in a global market for IT that includes infrastructure services, such as storage and compute functionality, application infrastructure services, such as database services and system management and security services, and software services, like business productivity, business analytics, and word processing software. Before AWS pioneered cloud computing, developers' primary option was to procure servers to run the applications, hard drives to store the data, and network switches to share the application with its users. Amazon built sophisticated, scalable web services as a competitive IT solution that helps businesses meet their IT needs with a more powerful and flexible solution sold as a "pay-as-you-go" service that requires no long term commitment. With AWS, start-ups with nothing more than a good idea have access to the same hardware and software that Amazon and AWS's largest customers use for their operations. Today it is far easier to bring ideas to market because developers can experiment with sophisticated technology at extremely low cost and scale their spending to meet their needs. AWS has helped democratize access to IT by lowering the cost of innovation for customers and making it easier than ever to start a company.

8. Is the "Gazelle Project" still active at Amazon?

No, nor is the description of activities under that label, which occurred 15 years ago, accurate.

9. Please specify the exact number of Amazon employees that are dedicated to understanding and responding to the concerns of Marketplace sellers, including concerns relating to account suspensions.

Amazon employs more than 10,000 full-time employees and partners with more than 5,000 contracted workers around the world dedicated to understanding, responding to, and providing support for our selling partners. These people obsess over helping our selling partners succeed, including assisting them in setting up and managing their accounts, listing products for sale, answering questions about Amazon's policies, helping resolve performance-related issues, and evaluating and resolving issues relating to account suspensions. We are not perfect, and are constantly striving to learn from our processes and improve outcomes for our sellers, but we work hard to support sellers and believe the success of sellers in Amazon's stores is a testament to this hard work.

Separately, Amazon employs more than 7,000 employees worldwide who build and maintain the systems and tools that make it easier for our selling partners to reach our customers, provide our selling partners with information about their businesses, and distill that data into actionable recommendations. These employees are constantly developing new services for our selling partners; in 2018 alone, we launched over 100 new services and tools for our selling

partners. In addition, these teams help recruit, launch, and provide account management services that aid our selling partners in establishing and growing successful businesses.

Amazon also employs more than 5,000 employees worldwide to fight fraud and abuse, which threatens our customers and the success of our honest selling partners. Protecting our customers and selling partners from fraud and abuse is our top priority. Bad actors are constantly changing their tactics to attempt to abuse our customers and selling partners; abuses like fake reviews, brushing, and other forms of search rank abuse make it difficult for honest entrepreneurs to succeed. As a result, we are constantly developing new systems and strategies for detecting and thwarting bad actors. In 2018 alone, we spent over \$400 million to fight fraud and abuse in our stores; those investments directly benefit our selling partners by building a shopping experience trusted by hundreds of millions of customers and by preventing bad actors from impeding their success.

10. Please identify the specific steps that a Marketplace seller would take to reach an Amazon employee.

Our selling partners have a variety of ways to contact Amazon employees. They can always contact us directly through email and engage with our moderators through our public online forums. In addition, selling partners with a professional account can contact us through phone and chat. The most common way for sellers to reach an Amazon employee is to use the “Contact Us” option within the “Help” section of Seller Central (our online portal for sellers). They have numerous other options to initiate a conversation with Amazon, including through their account health dashboard in Seller Central, through help pages and forums in Seller Central, through links included in emails that Amazon sends, through our mobile selling app, and many more. Amazon’s Selling Partner Support team handled more than 40 million contacts from selling partners in 2018, and we strive to respond to and resolve every contact expeditiously. More than 90% of emails were responded to in under 12 hours; more than 90% of phone calls are answered in under 90 seconds; more than 90% of chats are answered in under 90 seconds; and more than 80% of all seller issues are fully resolved in under 24 hours.

We work hard to support the honest entrepreneurs worldwide who sell through our stores. We provide a range of tools to help sellers avoid and correct mistakes that may have led to policy violations. Our goal is to quickly help them remedy any errors and get back to selling. All of our selling policies are available to our selling partners, and we try to make them clear and easy to understand. We produce an entire educational series called Seller University. We provide account health dashboards and alerts, inventory management tools, a host of performance reports, and dedicated APIs that help selling partners track the performance of their products and accounts, and that give them warning of issues as they arise. We offer self-service resolution for many issues, enabling sellers to edit their listings or fix other common problems instantaneously. We proactively call selling partners when their accounts are at risk and provide individualized support and a path to address any outstanding concerns before taking action against their account. We track repeated selling partner contacts to identify and escalate issues that are not successfully resolved and that are recurring pain points for selling partners. We also constantly

learn from our processes, identifying any errors or opportunities for improved seller satisfaction, determining the root causes for those gaps, and preventing them from occurring in the future.

11. What specific avenues of recourse are available for Marketplace sellers whose accounts are suspended by Amazon?

It is in our economic interest to minimize any disruption of our selling partners' sales. Where we take action against suspected violations, our goal is to provide clear and actionable communications to sellers, describe the policy violation that led to the suspension, and offer an appeals process where sellers can explain how they will prevent the violation from happening in the future or let us know if they believe we made a mistake. Those appeals are handled by specialized teams, and sellers are able to submit information to support their case. We often call sellers before suspensions occur to try to address the underlying issue and prevent account suspension in the first place. We also closely monitor our decision accuracy, analyze our mistakes to understand how they occurred, and use those lessons to prevent similar mistakes from happening in the future. We regularly evaluate our communications with our selling partners to make sure they are clear, actionable, and empathetic. And even when sellers are suspended for policy violations they committed, we realize that sellers can make mistakes and should have a chance to try again if they can implement controls to prevent their past issues from reoccurring.

We must protect both our customers and our selling partners from fraud, counterfeits, and other forms of abuse, and in order to do so, we sometimes take swift action to suspend selling accounts that have violated our selling policies. And in order to prevent demonstrated bad actors from gaming our systems or obtaining insights into how we detected them, we may limit the contact and appeal options for egregious violations (e.g., stolen identity, credit card fraud, efforts to defraud our customers, etc.). We want to provide honest sellers with every opportunity to be successful while at the same time ensuring that customers have a safe and trustworthy shopping experience.

* * *

Amazon welcomes the opportunity to provide further information regarding any of the topics addressed above, and to answer any additional questions that the Subcommittee may have. Thank you for the opportunity to address your concerns.

Sincerely,



David Zapolsky
General Counsel
Amazon.com, Inc.