
FTC Files Landmark Monopoly Suit Against Amazon

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In a complaint filed on September 26, 2023, the Federal Trade Commission (“FTC”), along with the attorneys general of 17 states, sued online retail giant Amazon.com, Inc., alleging that Amazon illegally uses its monopoly power to inflate prices, harm sellers, and weaken competition in violation of antitrust laws. The dispute could affect tens of millions of American families, thousands of businesses and products, and more than one hundred million online shoppers. The 172-page complaint alleges that Amazon engages in unlawful monopoly maintenance and unfair methods of competition in violation of Section 2 of the Sherman Act, which prohibits acquiring or maintaining monopoly power, or attempting to do so, through improper means; Section 5(a) of the FTC Act, which prohibits unfair competition; and various state antitrust laws. The FTC is seeking an injunction prohibiting the allegedly unlawful behavior and may advocate for structural relief, which could include a breakup of the company.

The FTC alleges that Amazon illegally maintains monopoly power in the “online superstore” and “online marketplace services” markets through anti-discounting and tying measures. These efforts allegedly include “burying” certain products in search results, withholding certain display features for products of sellers that offer lower-priced items on rival platforms, and restricting eligibility for Amazon’s “Prime” program to sellers that use Amazon’s fulfillment services. According to the FTC, Amazon seeks to “prevent rivals from gaining the scale they need to meaningfully compete.” This exclusionary conduct, the FTC alleges, creates feedback loops that stifle price competition, production selection, and quality, increasing prices on consumers and harming competition among sellers.