

SOMMO



**Amazon's
European
chokehold**

Content

Executive summary	3
Glossary	6
Amazon's chokehold over online shopping in the EU and UK	7
Not just a shop: an economy-wide behemoth	8
Amazon's rent from independent sellers	9
Fees and more fees	9
Advertising, a less visible charge	11
Amazon's revenue from sellers	13
Amazon's rising prices for sellers	14
Fulfilment by Amazon – the implicit fee	15
From organic search to retail media leader	18
Slotting, not advertising	19
A necessary evil	20
Competition investigations across Europe	23
Recommendations	26

Executive Summary

Amazon has taken over Europe. After a 20-year-long expansion, supercharged during Covid-19, the US giant is now by far the dominant e-commerce company in Germany, the UK, France, Italy and Spain. In these countries, Amazon is the main port of call for online shoppers. That has made the company nearly unavoidable for independent sellers that wish to sell their products online. This gives Amazon immense power to set abusive terms and extract ever-increasing fees from sellers.

In spite of Amazon's reach in Europe, its business model is not always well understood. Starting as an online book retailer, it first expanded the types of products it resold, then opened up its website to independent businesses to sell their products. The next step was to provide these sellers with extra services, including logistics and advertising. At the same time, Amazon started making and selling its own products.

In this process, Amazon accumulated different – and conflicting – roles: Amazon as the marketplace intermediary, setting the rules for the market and monitoring all activity within it; as seller, in competition with the independent sellers on the platform; and as service provider to those sellers.

As Amazon accumulated data and insights from products searched for and sold through its platform, and gained financial scale,¹ it built interlocking business lines that reinforce each other. Founder Jeff Bezos spoke of a “flywheel” with various nodes: boost any node, and you boost them all. The more sellers are on Amazon, the more products it has to draw buyers, the more buyers and sellers flock to it.

The strategy has scaled in Europe as Amazon has become the biggest online retailer. In the European Union (EU) alone, there are now 800,000 sellers active in Amazon's marketplaces.²

Amazon has been eager to portray itself as a supporter of European small and medium enterprises (SMEs). A top Amazon official in Europe recently claimed that SMEs and Amazon are “stronger together”.³ But a growing number of competition investigations probing Amazon's potential abuses of its power towards sellers tell a different story. As a British seller told SOMO: “Amazon is no friend of the small business.”

Sellers are locked into the platform. This, in turn, has allowed Amazon to get away with extracting monopoly rent from them, pushing them into acquiring extra services, and continuously increasing the fees it charges them.

By tracing Amazon's complex structure in Europe, studying service prices over the years, and analysing the findings from competition investigations, SOMO can now show that:

► **Amazon's income from sellers' fees has tripled in the past five years**

In 2022, Amazon raked in € 23.5 billion in service fees from independent sellers in Europe. This was more than triple the € 7.6 billion it obtained in 2017. These fees include charges for listing, delivering, and getting support from Amazon.

Amazon argues that this increase is due to higher sales volume from sellers. The company refuses to provide concrete data but has claimed that, in the two years ending in 2021, the number of products sold by independent sellers increased by 65 per cent. Yet that is significantly lower than the increase in revenue Amazon collected from sellers' listings and logistics – 85 per cent.

Sales increases do not explain the full increase in revenue. That is before we even consider advertising revenue.

► **Amazon's advertising revenue in Europe has exploded since 2017**

In the past years, Amazon' has increasingly monetised its display results and recommendation features. This saw a move away from organic results, which would be ranked according to quality, relevance, and price, towards paid-for sponsored content. Advertising on Amazon doesn't have a fixed price: it is set by an auction for keywords. The more sellers and other business clients bid for a specific keyword, the more expensive it gets.

This way Amazon added an estimated € 2.75 billion in advertising revenue from independent sellers in 2021. Since 2017, Amazon's overall European advertising revenue has grown nearly 17-fold.

► **Amazon's cut of sellers' income is increasing**

Services like delivery and advertising are theoretically optional. Yet Amazon has used its power to make them nearly indispensable by linking them with achieving visibility and sales.

In this period, Amazon has either kept fees high (for example, for listing) or increased them (such as for delivery and storage). Analysis of delivery and storage prices from 2017 to 2023 in Germany, the UK, France, Italy, and Spain shows that Amazon has been continuously increasing the prices of these services.⁴

Amazon sellers seem to be increasingly shouldering Amazon's costs, including the costs of the expansion of its network of fulfilment centres and also the digital services taxes in France and the UK, taxes meant to respond to the extremely low tax contributions of high-revenue digital multinationals like Amazon.

Increasing delivery and storage services fees (“Fulfilment by Amazon” or FBA) and rising advertising costs have meant that the cut Amazon takes of sellers’ sales has increased too. According to research by Marketplace Pulse, Amazon keeps on average 50 per cent of sellers’ revenue. Amazon’s cut of sellers’ revenue has increased by 10 per cent in five years, due to rising FBA charges and making advertising spending on Amazon “unavoidable”.⁵

Amazon’s fees are squeezing sellers, who, after listing, delivery, and advertising costs are taken out, have very narrow margins to pay for the goods they sell, their employees, and any other overhead costs. Something inevitably needs to give: either sellers go out of business due to diminishing margins or they increase prices, potentially contributing to inflationary trends across the market.

► **Charges extracted from sellers grow faster than Amazon’s own sales**

Amazon’s squeezing of sellers is a crucial pillar of its European business, as revenue from independent sellers’ fees is growing faster than its core business, its European retail arm.

Altogether, in 2021, Amazon’s revenue from sellers in Europe amounted to € 24.95 billion. The European business is so large that, should Amazon spin off its European marketplace into a separate company, the new firm would immediately become Europe’s third largest tech company by revenue.

► **Amazon sellers are locked in and vulnerable to abuses**

Competition investigations in Italy and across the EU have exposed how the company has used its power over sellers to push them into buying logistics services in order to be visible to buyers, and using confidential seller data to compete against them⁶. A similar investigation is underway in the UK⁷.

In Germany, the competition authority is investigating whether Amazon is influencing sellers’ pricing with its policies and automated tools⁸. Amazon’s Fair Pricing Policy seems to be in particular contention as Amazon monitors product prices on and off the website and will then demote or even block a product if it finds lower prices elsewhere.

While Amazon argues that this is meant to protect shoppers, it could instead just be protecting Amazon’s “price perception”,⁹ isolating itself from price competition while invisibly increasing prices across the economy.

► **Amazon’s monopoly power is a structural problem that needs a structural solution**

Sellers who spoke with SOMO say they have to be on the platform, no matter how Amazon treats them. That is power.

So far, competition probes in Europe have looked at each behaviour in isolation and have either imposed fines or ordered the company to stop a specific practice. None have addressed the company structurally, to tackle the conflicts of interest that lie at the root of its power and wealth.

It is time that competition authorities and policymakers adopt a structural response and, once and for all, break up Amazon’s monopoly power.

Glossary

Amazon Retail The part of the business where Amazon is the seller of record. This includes products Amazon buys wholesale from manufacturers and, increasingly, Amazon's own products (e.g. Echo, Kindle, and Ring) and brands (e.g. Amazon Basics).

Buy Box You can see the Buy Box on the right side of the product page, highlighting one selected offer. Customers can buy it with just one click via the "Buy Now" or "Add to Basket" buttons. The Buy Box is awarded to sellers by non-transparent automated processes.

Dominant market position A company can hold a dominant market position with excessive control and power over users and competitors. At EU level, this is considered to happen if the company controls more than 40 per cent of the specific market over a period of time. Other factors are also considered.¹⁰ Big Tech firms often hold market shares above 80 per cent, making pressure from competitors marginal, and one can speak here of super-dominance.

Fulfilment by Amazon (FBA) Logistics services provided by Amazon including storage, packaging, delivery, and handling returns.

Monopoly Traditionally a monopoly is understood to be a market dominated by one sole company. It is uncommon to find perfect monopolies in real life. However, a company's lasting dominance of a specific sector and its control over it might be so large that it can be described as holding monopoly power. In this report we refer to monopoly power to mean excessive and durable market power.

Monopoly rent Earnings gained by a firm that holds such market power that it is able to raise prices or control access conditions without fear or risk of competition.

Platform A service that intermediates between two or more sets of users, such as buyers and sellers, in dual or multi-sided markets. Increasingly this is the business model of Big Tech firms which act as the platform owner, setting the rules for the relationship and extracting rents – whether financial or data – from users. Amazon, for instance, sits between online shoppers and third-party sellers. This position lets it charge fees to sellers and collect data from all activities in its marketplace.

Prime Amazon's subscription programme that gives consumers free fast delivery, access to special discounts (e.g. on Prime Day), and Amazon's digital media content.

Referral The basic fixed fee sellers have to pay to list their product on Amazon, set as a percentage of the total value of the product.

Third-party sellers Independent businesses selling directly on Amazon. To list their products, sellers must pay Amazon a fixed fee per item sold, and they can acquire a variety of other services from Amazon including seller support, logistics (FBA), and advertising.

Vendors Brands and producers that supply Amazon with wholesale goods for Amazon's retail arm.

Amazon's chokehold over online shopping in the EU and UK

“I go straight to Amazon,” says Maria,¹¹ when talking about online shopping. She is a Spanish Amazon Prime member who shops on Amazon monthly, sometimes several times a week. Her recent purchase history shows candles, a microwave, shoes for her boyfriend, and a laptop for her mother.

Maria is 'far from being the only person to make Amazon the first – and often the only – stop for online shopping in Europe. The Covid-19 pandemic turbo-boosted Amazon's European sales, as consumers' online shopping skyrocketed. In spite of a slight slowdown in 2022 as the lockdowns eased, Amazon's retail sales were still 58 per cent higher than pre-pandemic.¹²

In this period Amazon opened marketplaces and distribution centres in the Netherlands and Sweden (in 2020) and Poland (2021). Amazon Belgium launched in October 2022, with a distribution centre station in Antwerp. These four join the more well-established marketplaces of Germany and the UK (both launched in 1998) plus France (2000), Italy (2010), Spain (2011), and Turkey (2018). With the harmonised single market, the eight EU marketplaces allow Amazon to reach clients across all 27 EU countries.

Amazon is the most visited online retailer in most of the European countries where it has a marketplace. Altogether, the 10 European Amazon websites are estimated to receive around 1.4 billion visits per month.¹³ Visitors turn into shoppers; more than 2,700 products were sold per minute on Amazon's European marketplaces in 2020.¹⁴

In Germany, 80 to 90 per cent of online shoppers use Amazon,¹⁵ and more than half of all online sales go through it.¹⁶ In France, again, 80 to 90 per cent of online shoppers use Amazon, while in Spain the figure is 70 to 80 per cent.¹⁷ Shoppers' spending vastly increases once they subscribe to Amazon's Prime loyalty programme, which has grown continuously with up to 20 million users in Germany,¹⁸ an estimated 21 million in the UK.¹⁹ and up to 10 million each in France and in Spain.^{20, 21}

As the company has grown in popularity with users, it has become unavoidable for businesses seeking online shoppers. Amazon does not disclose how many business customers it has. However, according to the Executive Vice-President of the European Commission, Margarethe Vestager, there are now 800,000 sellers active in Amazon's Europe marketplaces.²²

When it comes to providing marketplace services for sellers, the European Commission has found that Amazon has held up to 70 per cent of the online retail market in Germany, France, and Spain since 2019.²³ The Italian competition authority found that Amazon enjoyed a "super-dominant position" in this market.²⁴

In many European countries, Amazon is now the only viable route for small businesses seeking to sell their products online. As the owner of a small UK business summed it up: "You *have* to be on Amazon; some people will only go to Amazon."

Amazon's market share in intermediation services in Germany, the UK, France, Spain, and Italy enables the e-commerce giant to set the rules of the game for sellers, including sellers with which it competes, and extract money and data from them. In other words, Amazon holds monopoly power.

Amazon rejects these findings as it believes that it is in competition with the full retail sector, not only e-commerce players. An Amazon spokesperson told us: "We strongly disagree with this characterisation, and these statistics fundamentally misrepresent how the retail industry works. The retail market that Amazon operates in is very large and extraordinarily competitive. Customers shop online, through click and collect, and in-store as well. Retail is multi-channel. It's not about online versus offline – customers shop in many different ways. If we don't provide a great experience, customers will simply buy their products from the shop down the road."

Though, of course, sellers are a subset of Amazon's clients and, for them, placing their products on the shop down the road is not a direct substitute for selling on an online marketplace.

Not just a shop: an economy-wide behemoth

From its early European expansion more than two decades ago, Amazon morphed from an online reseller of books and other products, which it would buy wholesale from manufacturers, into an e-commerce platform where independent sellers pay Amazon a service fee to sell their own products.

This move, and the addition of more services such as advertising and logistics, changed the essence of Amazon from an online shop to a platform, more akin to a shopping centre. This change enables Amazon to impose rents on business users to access consumers. In 2009, it also began producing and selling its own goods on its platform.²⁵

Over the years, Amazon has accumulated different roles: as seller, in competition with independent sellers; as marketplace intermediary, setting the rules for the market; and as service provider, selling advertising, delivery, and many other support systems for the businesses using the Amazon platform.

In 2021, research from the Institute for Local Self-Reliance showed that in the USA small businesses are stuck on the platform, a position Amazon has taken advantage of by imposing ever-growing fees and acting like a tollbooth operator.²⁶

By mapping Amazon's revenue from sellers in Europe, analysing seller service prices, and reviewing evidence from competition investigations, SOMO has found similar dynamics at play in Europe.

Amazon's rent from independent sellers tripled from 2017 to 2022

In 2022, Amazon raked in € 23.5 billion in listing, logistics, and other service charges from sellers in Europe.²⁷ This revenue has steadily increased, year upon year, with a remarkable jump in 2020, a likely result of the Covid-19 pandemic. In just five years, Amazon's take in seller service fees more than tripled from € 7.6 billion in 2017 (Table 1).

Table 1.
Amazon's income from sellers' fees (except advertising), 2017–2022 (€ billion)

Sellers' fees	2017	2018	2019	2020	2021	2022
Net turnover	7.6	10.2	12.0	17.7	22.2	23.5
Year-on-year growth	–	34%	18%	48%	25%	6%

Fees and more fees

To sell on Amazon's marketplace, independent sellers pay a listing fee per product. The fee varies according to the category of the product but mostly ranges from 8 to 18 per cent of the total product sales price. This includes VAT and any possible shipping costs.

Listing fees have been mostly unchanged for many years. In theory, Amazon's costs ought to be falling as it gains economies of scale and scope; its listing fees should fall too. The fact that these remain so high suggest that Amazon doesn't feel competitive pressure to reduce them.²⁸

Over the years, Amazon has also started providing additional services to sellers. These include the programme Fulfilment by Amazon (FBA), an *à la carte* programme where sellers can pay Amazon to take care of storing, packing, and delivering orders. With FBA, fees add up: sellers pay for returned products, for unplanned services, and for long-term storage. Prices depend on the season and type of product.²⁹ Sellers can also pay for premium services that include a marketplace consultant³⁰ to provide support.³¹ Sellers' fees are now one of Amazon's largest revenue sources in Europe and keep growing at a fast pace (Table 2).

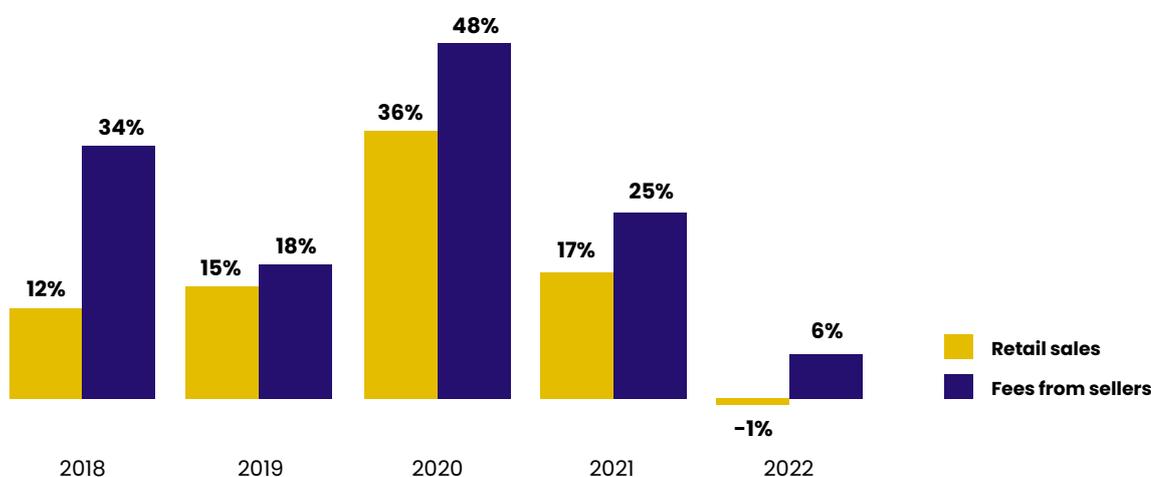
Table 2.
Amazon's European income sources, 2017–2022 (€ billion)

Total revenue in billions	2017	2018	2019	2020	2021	2022
Retail sales - Amazon EU S.à.r.l.	24.9	27.9	32.2	43.8	51.3	50.9
Year on Year Growth		12%	15%	36%	17%	-1%
Fees from sellers - Amazon Services Europe S.à r.l.	7.6	10.2	12	17.7	22.2	23.5
Year on Year Growth		34%	18%	48%	25%	6%
Cloud - Amazon Web Services EMEA SARL	0.3	1.9	4.8	6.1	8.3	12.1
Year on Year Growth		533%	153%	27%	36%	46%
Digital content (e.g. Kindle, PrimeVideo) - Amazon Media S.à r.l.	0.8	0.8	0.9	0.7	0.9	0.9
Year on Year Growth		0%	13%	-22%	29%	0%

In fact, revenue Amazon generated from sellers kept growing even as Amazon's own European retail arm (Amazon EU S.à r.l.) saw a small reduction in 2022 (Figure 1). Rent from independent sellers is now the second most important source of revenue for Amazon in Europe.

Only Amazon' Web Services EMEA SARL, through which the company provides access to a commercial cloud, is growing at a faster pace, up 46 per cent in 2022 from the year prior. See Box 1.

Figure 1.
Amazon's year-on-year growth, 2018–2022



Box 1.

Tracing Amazon's corporate structure in Europe

To trace Amazon's revenue, we identified the Amazon entities in Europe that report income from sellers within the company's complex corporate structure.³²

Luxembourg – a major European corporate tax haven³³ – is the organisational hub and financial centre for Amazon's European businesses.³⁴ Sellers' listing and delivery fees are managed via Amazon Services Europe S.à r.l., a subsidiary headquartered in Luxembourg.³⁵

Amazon's own retail services in Europe are operated and processed by another Luxembourg-based subsidiary, Amazon EU S.à r.l.³⁶

Both Amazon Services Europe S.à r.l. and Amazon EU S.à r.l. are owned entirely by another Luxembourg-based company, Amazon Europe Core S.à r.l.³⁷

The latter holds the company's "automated tools, databases and data infrastructures underlying the operation of Amazon's European business operations".³⁸

By contrast, advertising services, including those provided to marketplace sellers in Europe, are not booked in Luxembourg but at national-level subsidiaries that handle them according to where the advertising is delivered. In the European marketplace, there are nine companies handling advertising income only.³⁹ The legal entities processing these payments are listed in the advertising agreement with the company,⁴⁰ and their annual accounts describe their sector of operations as advertising. All nine companies are fully owned by Amazon Europe Core S.à r.l..

Amazon Europe Core S.à r.l. is directly owned by the US-based Amazon.Com Sales Inc., which in turn is owned by Amazon.Com Inc.

For Amazon's corporate structure, see Figure 2.

Advertising, a less visible charge

There is another charge that has become crucial for sellers on Amazon that is not booked in a Luxembourg subsidiary: advertising.

By tracking the Amazon subsidiaries that book their advertising services across Europe, SOMO can show that Amazon's European advertising revenue exploded over the five years to 2021, reaching € 5.4 billion and up from just € 0.3 billion in 2017 (Table 3).⁴¹

Amazon offers an ever-growing number of advertising services: sponsored products and sponsored brands that get first spot on search results; sponsored displays and virtual storefronts; support for ad optimisation; and an advertisers' platform that places ads inside and outside Amazon.⁴² The company does not report advertising income from sellers separately from its other clients, such as big brands whose products are sold on Amazon by others.

In 2021, the Institute for Local Self-Reliance estimated that more than half of all US Amazon advertising income comes from sellers trying to drive traffic to their listings.⁴³

Figure 2.
Amazon's corporate structure

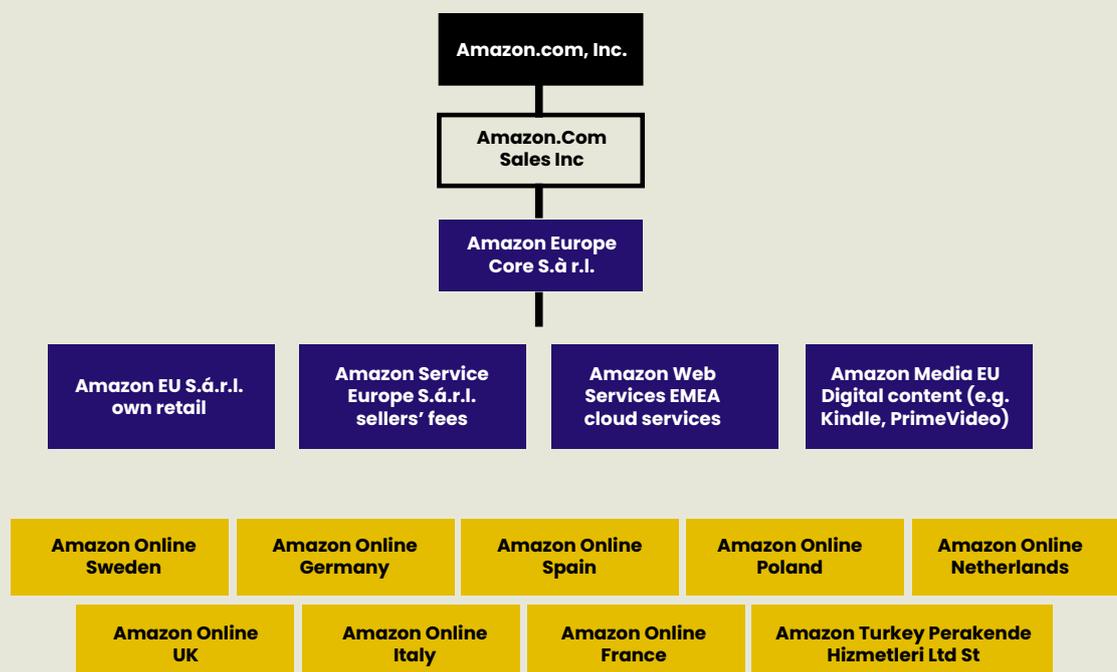


Table 3.
Amazon's advertising revenue, 2017–2021 (€ billion)

Amazon advertising revenue (€ bn)	2017	2018	2018	2020	2021
Amazon Online Germany	0.1	0.3	0.9	1.3	2.1
Amazon Online UK ¹	0.1	0.3	0.7	1.2	1.9
Amazon Online France	0.0	0.1	0.2	0.3	0.5
Amazon Online Italy	0.0	0.1	0.2	0.3	0.4
Amazon Online Spain				0.0	0.0
Amazon Online Netherlands	0.0	0.1	0.2	0.3	0.5
Amazon Online Sweden ²					0.0
Total	0.3	0.8	2.2	3.4	5.4

1. Results Amazon Online UK are reported in pounds. To convert them into euros SOMO used the average foreign exchange rate for the year sourced from Exchangerates.org.uk and confirmed with European Central Bank data.

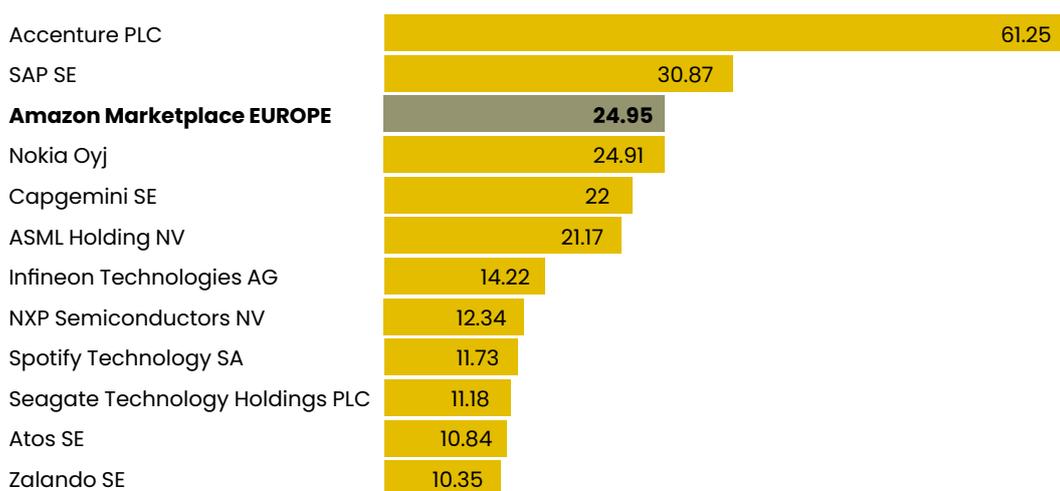
2. Results for Amazon Online Sweden are reported in Swedish Kroner. To convert them into euros SOMO used the average foreign exchange rate for the year sourced from Exchangerates.org.uk and confirmed with European Central Bank data.

A rough analysis of search results on Amazon.de, Amazon.co.uk, Amazon.fr, Amazon.es, and Amazon.it indicates that independent sellers account for more than half of all sponsored results, which suggests that we can expect sellers in Europe will also account for at least half of Amazon's advertising revenue.

Given that Amazon’s advertising income in Europe amounted to € 5.4 billion in 2021, we estimate at least over half (51 per cent), or € 2.75 billion, originated from sellers. This brings the total income Amazon obtained from sellers in 2021 up to € 24.95 billion.

To put these numbers into perspective, were Amazon to spin off its European marketplace into a separate company, it would immediately become Europe’s third largest tech company by revenue (Figure 3).

Figure 3.
Europe’s largest tech companies by revenue (€ billion)



Eikon, Sector analysis – European companies in the technology sector – excepting telecommunication firms, Retrieved on 28/02/2023

Amazon’s revenue from sellers’ increase due to higher sales but also higher fees

Responding to our finding of Amazon’s increasing revenue from sellers fees an Amazon spokesperson said: “Revenue has increased, because our European selling partners have grown their businesses through Amazon. Sellers account for approximately 60 per cent of units sold in our store, and we’ve long celebrated that their sales are growing faster than Amazon’s own sales. Simply put, Amazon only succeeds when sellers succeed.”

Amazon has refused to disclose data on sellers’ sales values in European marketplaces. Instead, the company has pointed out that in 2021 European sellers “sold more than 2.2 billion products worldwide in 2021, which represents a 65 per cent year-on-year increase in sales volume”.

This percentage figure, which has been quoted in Amazon promotional reports, seems to be incorrect. Amazon’s 2022 *European Small and Medium Enterprises Impact Report* stated that European SMEs sold 2.2 billion products in 2021, up from 1.8 billion in 2020,⁴⁴ a 22 per cent increase rather than 65 per cent. Following clarification requests

from SOMO, Amazon corrected the public report⁴⁵ and that the 65 per cent increase actually refers to a two-year period.

Amazon doesn't provide a full definition of which sellers are included in this statement, although it is clear that it does not include the whole universe of sellers in Europe.

While keeping in mind the problems with the data that Amazon quotes, it is still noteworthy that, in the two years when Amazon says sales volume of independent sellers increased by 65 per cent, the revenue Amazon received from sellers' listings and logistics increased by 85 per cent. That is before we even consider advertising revenue.

The sales increase doesn't seem to tell the full story behind the increase in Amazon's revenue from sellers' fees.

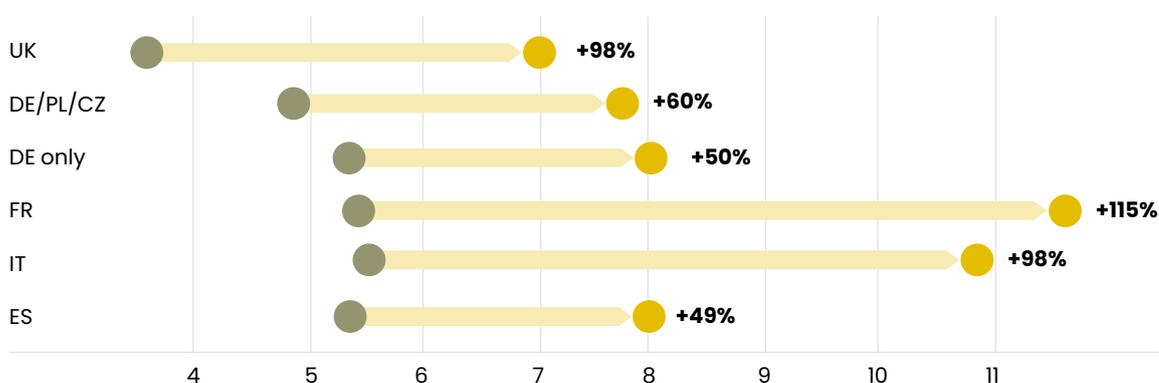
E-commerce analyst at Marketplace Pulse, Juozas Kaziukenas, has followed Amazon's marketplace for years, and according to his analysis there are two reasons behind the increase. On the one hand, as Amazon has grown, more and more products have been sold through Amazon. On the other hand, the fees Amazon charges to sellers have themselves increased, specifically fulfilment (FBA) fees.

Amazon's rising prices for sellers

Kaziukenas surveyed a sample of sellers' profit and loss statements and found that Amazon on average takes a 50 per cent cut of sellers' revenue.⁴⁶ The analysis indicates that Amazon's cut of sellers' revenue has increased by 10 per cent in five years due to rising FBA costs and making advertising spending on Amazon "unavoidable".⁴⁷

Kaziukenas's research focused on US sellers, and further research is needed to establish the facts in Europe. Amazon's services are, however, getting more expensive. Analysing delivery and storage prices from 2017 to 2023 in Germany, the UK, France, Italy, and Spain shows that Amazon has been continuously increasing the price of these services.⁴⁸ The increases have varied, but in some categories they have more than doubled (Figure 4).

Figure 4.
Amazon's rising prices, 2017–2023



FBA prices for a standard parcel delivery $\leq 11\text{kg}$

In 2022 there were large across-the-board increases in FBA prices as Amazon announced it would increase its prices to respond to the higher energy costs and inflation. However, the price rises predate Covid-19 and the subsequent crises. In 2018, for instance, storage fees across Europe were raised by 30 per cent.

In 2020 and 2021 Amazon increased sellers' prices in the UK and France respectively to cover the digital services tax each country adopted.⁴⁹ These taxes were meant to drive up the contributions from Big Tech's immense revenues from online advertising and platform intermediation. Yet Amazon has entirely passed them on to sellers.⁵⁰

SOMO asked Amazon why the listing fees have not been lowered as the company has expanded and become more efficient, and why logistics services have kept increasing for the past five years. An Amazon spokesperson replied:

“Since the start of the pandemic we’ve more than doubled fulfilment capacity to ensure sellers can store and ship their products to customers. We have also invested billions in new tools and services for sellers to help them succeed. Some of our latest features for sellers include launching a new analytics dashboard, enabling click & collect, and new tools to help sellers grow their business.”

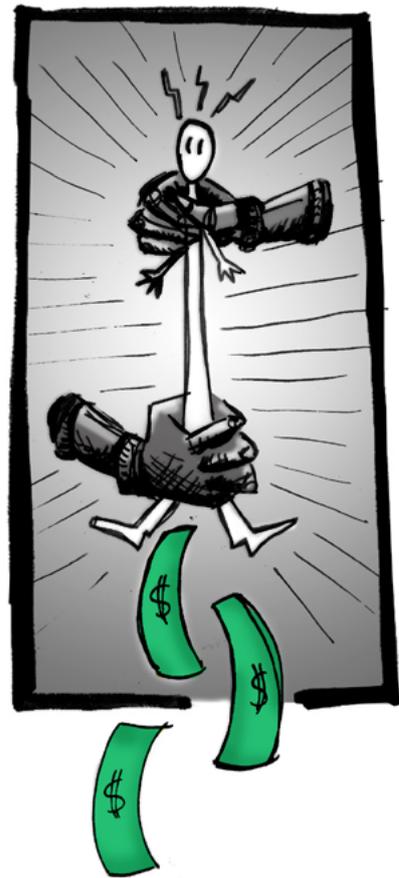
However, Amazon's rising fees can put a real squeeze on sellers. After the listing, delivery, and advertising costs are taken out, sellers have very narrow margins to pay for the goods, their employees, and any other overhead costs.

Diederik, for instance,⁵¹ sold imported cotton clothing on Amazon for seven years until the shrinking profitability forced him to sell his business in 2020. Now he provides consultancy services to other sellers. He said to SOMO: “What I tell people is that, to start on Amazon today, number one you need a very profitable product, you need a big margin, and the product has to be very unique. Or you have to be very big. You need a lot of capital. If you don't have that, don't start.”

Fulfilment by Amazon – the implicit fee

Neither FBA nor advertising costs are mandatory for sellers. Amazon offers them as add-ons, services to *help* sellers. However, over the years Amazon has created incentives to pressure sellers to buy them.

FBA carries the benefit of getting sellers' products into the Prime programme,⁵² being selected for the Buy Box (featured offers), or being allowed to participate in special days like Prime Day – essentially being actively promoted and prioritised on the platform. An internal presentation used to train Amazon sales staff, unearthed in an inves-

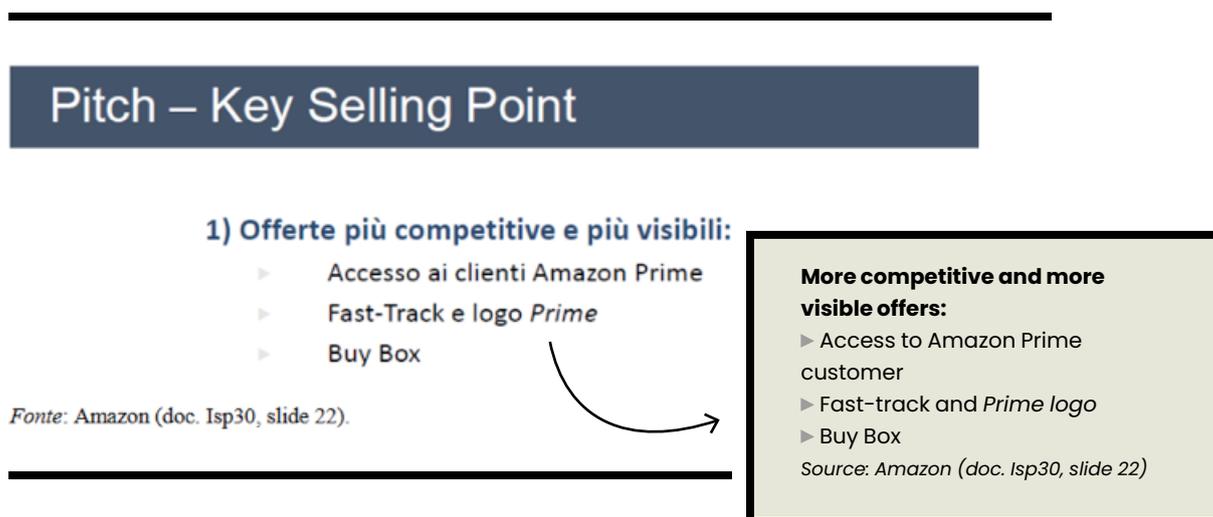


tigation by the Italian competition authority, shows that Amazon was pitching FBA as a way to become more competitive and gain visibility (Figure 5).⁵³ This was also seen in presentations and emails to independents sellers.

Access to Prime can be crucial. Prime members are “more loyal clients, who buy more and more often”.⁵⁴ They also mostly buy only products labelled as Prime, which make up 70 to 90 per cent of all sales to Prime members.⁵⁵ Being labelled as part of the Prime programmes is therefore a prerequisite for being visible to the most loyal customers of Amazon.

Not only that. Sellers were also told that paying for FBA would increase their 'chances of being selected for the Buy Box. Winning the Buy Box means a seller is shown as the default offer for a specific product. This is crucial on Amazon as multiple vendors offer the same product (Figure 6).

Figure 5.
Amazon’s FBA pitch as revealed by the Italian competition authority



The European Commission calculates that between 2017 and 2019, the Buy Box accounted for 70 cent to 90 per cent of all sales on the German and French Amazon websites. Amazon communicated this to sellers in promotional materials that highlighted that “90%+ of sales [are] com[ing] from the Buy Box”.⁵⁶ Products that were not selected for the Buy Box had minimal visibility and sales. This can mean life or death for businesses dependent on Amazon.

Yet the awarding of the Buy Box is shrouded in secrecy. In its preliminary statement, the Commission found that, where there are competing offers between a seller that arranges its own delivery and one that pays Amazon to do it, the one that pays Amazon will be selected as the best option around 90 per cent of the time – even if the offers have the same price, seller rating, and delivery speed.⁵⁷

The competition investigations by the European Commission and the Italian competition authority found that Buy Box selection was not the result of products being better

or cheaper but rather because Amazon used its market power to tilt the scales in certain products' favour by automatically and unfairly favouring products from Amazon or distributed by Amazon for the Buy Box. This made it essential for sellers to pay for FBA to get visibility and sales.⁵⁸

Figure 6.
Amazon product page with Buy Box highlighted

Customers are only shown this seller as the default offer for a specific product, in this case a monopoly game.

The screenshot shows the Amazon product page for 'Hasbro Gaming Mon Premier Monopoly'. The product is priced at 16.71 € (40% off from 27.99 €). The page includes a sidebar with purchase options, where the 'Ajouter au panier' and 'Acheter cet article' buttons are circled in black. The sidebar also shows delivery information, stock status, and payment options.

The Italian investigation argued that the link between FBA, Prime, and the Buy Box allowed Amazon to push logistics services on to sellers. This was despite sellers perceiving the service to be “expensive compared to other logistics solutions and problematic”, according to Amazon documents quoted in the report.⁵⁹

Amazon disputes the conclusions from both investigations. It is currently in court against the Italian decision, and while it has proposed a settlement with the EU it still refutes the charges. The company has responded to SOMO saying: “FBA is a completely optional services – sellers can choose to fulfil orders themselves, or use the service we provide. FBA is a choice that many sellers select because it provides a great value in being a fast and cost-efficient fulfilment channel. FBA includes many services that make life easier for sellers, such as inventory management, returns and customer service support. Fulfilment by Amazon – where we store, pick, pack, ship, and provide customer service for products enrolled – remains an average of 30% less expensive than standard-shipping methods offered by other major third-party logistics providers, and an average of 70% less expensive than comparable two-day shipping alternatives”.

From organic search to retail media leader

The other crucial charge for sellers is advertising. For William,⁶⁰ a UK jewellery seller, when it comes to the costs of selling on Amazon, his main concern is advertising, or how to ensure his listing is actually seen.

In past years, Amazon's results page has changed to show more ads relative to organic results that would have been based on ranking by quality, price, and relevance.⁶¹ Even features such as "Products related to this item" and "Customers frequently viewed" have been made into sponsored content.

Searching for a cat toy on Amazon Germany, for instance, we found 67 results on the first page on a desktop PC, of which nearly a quarter were sponsored. All the sponsored results were from independent sellers. Amazon UK, Amazon Italy, Amazon Spain, and Amazon France all showed similar results.⁶² Ranking on the first page of search results is crucial for sellers, as buyers will mostly limit their search to the first page.⁶³

Advertising on Amazon doesn't have a fixed price; it is set by an auction for keywords. As more and more sellers and other business clients bid for a specific keyword, it becomes more expensive.⁶⁴ Diederik, who started using the platform in 2012 to sell imported cotton clothes, told us he has seen immense price increases for advertising over this period.

According to market research company Jungle Scout's survey of Amazon sellers, more than half are concerned about the rising costs and fees, for example mentioning "increasing ad costs on Amazon" and that Amazon changes "search results to favour paid results over organic results".⁶⁵

A UK retailer told SOMO that sellers are incentivised to keep spending on advertising services to maintain the visibility for their products:

"You're forced to keep buying ads, so that you keep the velocity up, so the algorithm keeps showing your product. Like a hamster on a wheel, you have to just keep going. As soon as you slow the pace, then they'll just go your competitor. But if you get it right, then good."

An Amazon spokesperson commented: "Advertising is an integral part of retail; big and small retailers alike advertise or promote products in both their physical and on-line stores. Just like other retailers, we sell advertising in our store and ads have been part of the Amazon shopping experience for over a decade. Businesses that sell in our store decide if advertising makes sense for their company, try it and determine if it provides a good ROI [return on investment]. They may use it at different stages of their company's growth or product portfolio."

Thomas Höppner, competition lawyer at Hausfield, a law firm working in the US and EU, who has represented complainants against Amazon in the EU, commented:

“The need for sellers to spend more and more on advertising to remain findable on the Amazon marketplace suggests that Amazon ‘plays off’ such sellers against each other: Amazon provides them the option to appear above their rivals – if they are prepared to pay Amazon a premium for this top ranking. This way Amazon extracts even more rent from sellers.”

“Low risk, high reward” for Amazon is how a marketing consultant specialising in Amazon marketplaces described Amazon’s advertising model⁶⁶. The California Attorney General argues that this shift into sponsored results is part of Amazon’s campaign to “unleash monetization” by pushing sellers to pay another charge to be visible to buyers.⁶⁷

In 2022, Amazon reported that its advertising business brought in US\$ 37.7 billion globally.⁶⁸ Amazon started reporting separate income from advertising only in 2021 and is now widely seen as one of the leading digital advertising companies worldwide – surpassed only by Google, Facebook, Alibaba, and TikTok.⁶⁹ Analysts are now discussing the emergence of a distinct market, retail media networks dedicated to placing sponsored results in online shopping searches. Amazon is a leader in this category.⁷⁰

Slotting, not advertising

Stacy Mitchel, Co-Director of the Institute for Local Self-Reliance, based in the US, and author of *Amazon’s Toll Road*,⁷¹ argues that sponsored results are better understood as slotting charges rather than advertising, akin to supermarket chains charging producers and suppliers a fee for prime shelf position.

Slotting charges in food and agricultural products are a regulated activity under the EU’s Directive 2019/633 on unfair trading practices in business-to-business relationships. Under this framework, such charges are to be forbidden unless there is clear and unambiguous prior agreement between the parties. Considering Amazon’s immense size, the sellers’ perception that they have to be on it to access online shoppers, and the strong impact of design choices in shaping shoppers’ experiences, it is doubtful that agreement would be sufficient to limit the negative impact of slotting practices.

The company’s plunge into sponsored results is also at the expense of buyers, as search results become less accurate. Evidence put forward by the California Attorney General, in an ongoing lawsuit against Amazon in the US, showed that the company is aware consumers dislike this move and that it has wider impacts. Internal memos, for instance, reveal the Amazon chief economist directly complained that the ads “reduce selection, are not relevant to the customer’s search, and/or lead to increases in prices”.⁷²

This is also a sign of market power over buyers for whom the shopping experience will be worse – but because of Amazon’s power, they have little choice but to accept this. Cory Doctorow observed this process across Big Tech firms: once a platform has achieved entrenched market power, it can stop focusing on providing value for end-users so that it can extract as much rent as possible.⁷³

In spite of Amazon's fast advertising growth, Amazon's advertising practices have so far not been probed by European competition authorities.

A necessary evil

Amazon frames its relationship with sellers, and especially small and medium sized businesses, as a partnership where both parties are “stronger together”.⁷⁴ But the growing number of competition investigations across Europe and testimony from sellers paint a different picture. A UK seller told us: “Amazon are no friend of the small business in my view but are a necessary evil.”

Sellers we spoke with thought they had to be on Amazon because of its immense share of the online shopping market. This was in spite of the many problems they saw with the service: poor communication and lack of support; automated decisions that delisted a product without reason and without replying to questions or requests from the seller; the returns policy that leaves sellers exposed to fraud (according to one seller returns on Amazon are four to five times higher than on its own website); Amazon's influence over pricing; and, of course, Amazon's unfair competition with sellers through either using their data to develop competing products or preferencing its own products for the Buy Box.

Three problems were particularly salient in these sellers' experience that should be further investigated by competition authorities:

Automated decisions to delist and block worsened by lack of seller support

The sellers we spoke with referenced a lack of customer support from Amazon. A German seller of coffee machines described the situation as a “catastrophe”. This can be especially problematic when sellers see their products being delisted or blocked entirely, often through what seems to be an incorrect automated decision.

Lewis⁷⁵ has been selling domestic appliances and parts for repair on Amazon's marketplace for 12 years. During this time, they had their account suspended five or six times for no discernible reason. When this happened, they had “no money coming in through Amazon, and it's a massive impact on business”.

Sellers who spoke with us explained that resolving product suspensions can take weeks. According to Jungle Scout, a consultancy company advising Amazon sellers, Amazon tends to be “vague” when blocking, suspending, or suppressing products; and to reverse suspension, sellers might have to guess why it happened in the first place.⁷⁶

Automatic blocks on products with little to no explanation can have an immense impact on sellers, especially if Amazon is their main distribution channel.

Two sellers we spoke with said they had paid extra to Amazon to have access to a marketplace consultant. But at times even such consultants don't seem able to provide information on or explanations for Amazon's actions.

This underlines one of the overriding concerns for sellers: the risk of having their account automatically suspended. According to Diederik, the former seller turned con-

sultant, if that happens, “you have very little chance of doing anything about it”.

An Amazon spokesperson told SOMO: “We strive for clarity in our policies and communications so that sellers know how to address any issues. We have an appeal process in place and they can contact us directly via a ‘contact us’ link on the Account Health Dashboard and our Seller Support team available 24/7 via e-mail, phone, and chat. If a concern regarding a selling account is not resolved through our standard channels, the selling partner might still be eligible for mediation by an impartial third party who will work to facilitate dispute resolution. Prior to this, we will review the case again and try to resolve it where possible. We provide public facing information about this process on Seller Central.”

Amazon’s conflicting roles and data advantages

Another issue sellers raised was the result of Amazon’s multiple – and conflicting – roles in the marketplace.

A seller told us that they have habitually seen that, once a product picks up sales, Amazon starts selling its own version under the Amazon Basics brand. For this seller it was clear that Amazon was using the seller’s own data to copy their products. Amazon then started selling an identical product at a lower price, and at times even promoted it under the seller’s original posting.

Sellers are also concerned about the data that Amazon – often their competitor – has access to about their operations. This can be as detailed as getting ‘information about suppliers, raw costs, and retail margins. Sellers are worried Amazon can and does use this information for its own retail arm.

Amazon has been repeatedly accused of using sellers’ confidential data to compete against them. Reuters, for instance, had access to internal Amazon documents that showed its India team put in place a deliberate strategy to use internal data from sellers to copy their products.⁷⁷

And sellers’ concerns are shared by the European Commission. The Commission has made a preliminary finding that Amazon has used non-public seller data to start or end sales of a product, set its own retail prices, manage its inventory, and identify sellers it invites to become Amazon vendors. The Commission reports this as happening mostly via automated processes, yet it also points out that every Amazon employee in both its marketplace and its retail arm have access to sellers’ information.⁷⁸

In the Commission’s view, Amazon’s use of sellers’ data has created a “structural competitive advantage for Amazon Retail” that violates the EU’s fair competition rules.⁷⁹ Sellers are effectively shouldering the costs of experimenting with new product lines, yet Amazon can benefit from their experience at no cost. This has had immense impacts on sellers, as the Commission found that it “appears that third-party sellers typically exit the market when Amazon Retail enters”.⁸⁰

Amazon rejects the findings from the Commission. But in its settlement it has promised that, in the EU, “its retail business will not use non-public seller data to compete with sellers, while ensuring Amazon can continue to run the Amazon Store efficiently and effectively for both customers and sellers”.⁸¹

Monitoring and enforcement of this commitment will be crucial. As SOMO, the Balanced Economy Project, and the Open Markets Institute commented at the time, the settlement still leaves Amazon in the driving seat to decide what is public and what is non-public data.⁸²

Price monitoring and control

One UK-based seller described facing a particularly concerning problem: price controls and a seller's ability to set their own prices. At the time we spoke, the seller had 45 products blocked because Amazon considered them too expensive.

Once this happens, sellers see a message reading "high pricing error", referring back to Amazon's own fair pricing policy and suggesting the seller change the "price(s) using the provided reference price(s)". Reference prices are created by Amazon itself with little transparency, except that the fair pricing policy says that Amazon "regularly monitors the prices of items" and compares them to "prices offered on or off Amazon".

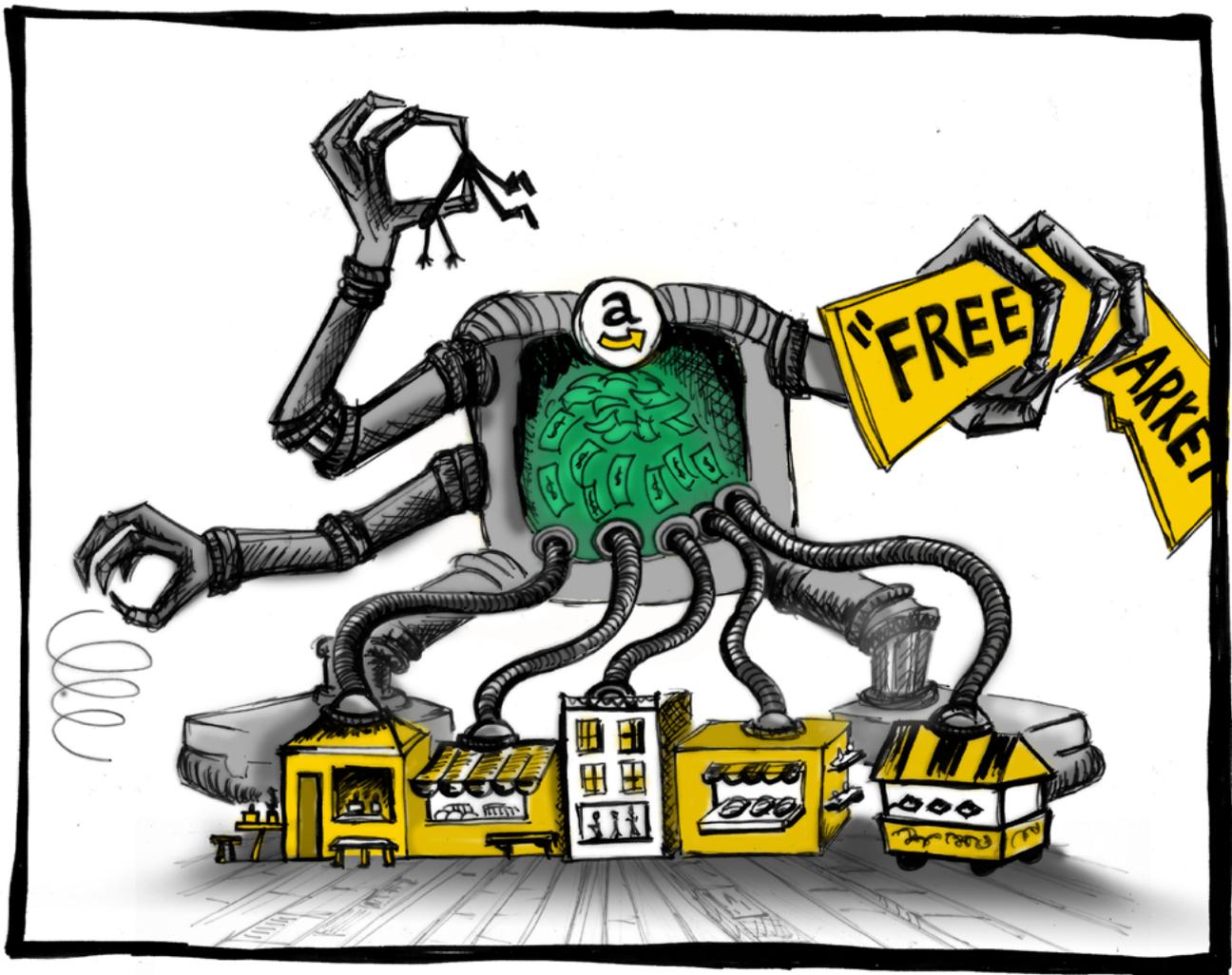
It is unclear where Amazon monitors prices or compares prices to. According to the UK seller we spoke with, Amazon's suggested price can be unrealistic and sometimes lower than what the seller pays Amazon to list and deliver the product. Once this happens, virtually no information is given to the seller, even by the marketplace consultant they pay extra to get support.

The lack of clarity seems to be intentional. According to recent disclosures from a lawsuit brought against Amazon by the California Attorney General, an Amazon representative working on seller pricing stated, under oath, that Amazon "deliberately provid[es] limited information" about its pricing decisions. The California Attorney General argues that this "obfuscation helps Amazon send its message that it is monitoring all website prices, everywhere, all the time – and that to stay in compliance with their price parity agreements, sellers must keep all of those prices the same or higher than their on-Amazon prices".⁸³

When asked about its pricing policies, an Amazon spokesperson told SOMO: "Selling partners set their own prices in our store, and our contractual clauses do not prevent this. We have policies to help ensure selling partners are pricing their products competitively, including the Amazon Marketplace Fair Pricing Policy. This policy ensures that only compelling offers are featured in our store and prohibits pricing practices that harm customer trust. We continuously compare the prices submitted by our selling partners with current and historic prices inside and outside our store to determine if prices are competitive."

Recent disclosed evidence from the California lawsuit, however, showed that, internally, Amazon admitted that "the suppression we are doing of non-price-competitive buyboxes for sellers . . . has little impact on lowering prices but does . . . protect our price perception".⁸⁴

One crucial implication of this would be that Amazon is forcing sellers to either absorb the entirety of its constantly increasing fees or raise prices for consumers – including



outside Amazon. This would mean that Amazon is able to charge high fees yet insulate itself from price competition. At the same time, its actions might be artificially inflating prices across the market in an invisible manner.⁸⁵

Via its automated pricing controls, Amazon seems to be reproducing the previously forbidden “price parity clauses” that prevented sellers from selling their products at a cheaper price outside of Amazon. In 2013, the German competition authority found that these clauses amounted to “horizontal price-fixing” that increased prices for consumers across e-commerce sites and prevented competition from other marketplaces.⁸⁶ As a result, Amazon was forced to remove this clause across the EU and the UK.⁸⁷

Amazon’s price controls are again under investigation in Germany.⁸⁸

Competition investigations across Europe

In spite of their fears and increasing costs, the sellers SOMO spoke with will continue selling on Amazon as they think the platform will continue growing and will remain the main port of call for consumers.

A survey from the Italian competition authority found that a third of independent sellers using e-commerce platforms would continue using marketplace services even if the price for the services were to significantly increase. Importantly, the group of sellers that stated they would continue using the services were responsible for 63 per cent of the total revenue made by sellers on e-commerce. According to the authority, this points to a lack of real alternatives in the market.⁸⁹

Amazon has such market power in European countries that sellers looking for a marketplace have no alternative. They stay on the website even when the costs increase and in spite of the quality of the service. In other words, Amazon holds entrenched monopoly power.

This has put Amazon in the crosshairs of competition authorities all over Europe (UK,⁹⁰ Italy,⁹¹ Germany,⁹² and the EU: Table 5).

Table 5.
Amazon competition investigations in the EU

Lead	Activity concerned	Status	Year	Result
Bundeskartellamt (German competition authority)	Price parity clauses for sellers EU-wide	Closed	2013	Amazon had to drop price parity clauses from sellers' contracts across the EU
CMA	Price parity clauses for sellers EU-wide	Closed	2012–2013	Changing terms of business for sellers worldwide
Bundeskartellamt	Abuse of dominance regarding sellers	Closed	2018–2019	Changing terms of business for sellers worldwide
AGCM (Italian competition authority)	Self-preferencing in Buy Box and Prime programme	Appeal ongoing	2019–2021	Fined € 1.128 billion and forced to immediately stop these practices
DG Competition (EU)	Use of sellers' data	Closed	2019–2022	Settlement: Amazon commits to not using non-public seller data
AGCM	Exclusivity agreement with Apple	Annulled by court	2020–2021	Fined € 68.7 million
DG Competition	Self-preferencing in Buy Box and Prime programme	Closed	2020–2022	Settlement. Amazon to ensure equal access to Prime programme and Buy Box at EU level
Bundeskartellamt	New rules for large digital companies	Ongoing	2022–	Amazon labelled a firm of paramount significance
Bundeskartellamt	Automated control of sellers' prices	Ongoing	2022–	
Bundeskartellamt	Exclusivity agreements	Ongoing	2022–	
CMA (UK Competition and Markets Authority)	Use of sellers' data, criteria for the Buy Box and Prime	Ongoing	2022–	
Class action (UK)	Self-preferencing in Buy Box	Ongoing	2022–	

At EU level, Amazon has just settled with the European Commission to finish two different investigations. One followed the lead from the Italian case looking into how Amazon unfairly favoured its own products and pushed sellers to subscribe to FBA via the Prime programme and the Buy Box.⁹³ The other looked at how Amazon was using non-public seller data to develop its own retail products.⁹⁴

These settlements introduce many positive developments. They could, for instance, finally prevent Amazon from tying-in FBA services with access to Prime buyers and prevent Amazon from using sellers' data. Yet there are many open questions as to how this will be implemented and regarding the ability of regulators and users to monitor the application.

SOMO, the Balanced Economy Project, and others have warned that Amazon's offered commitments "are too weak, vague and full of loopholes".⁹⁵

Amazon firmly disputes the competition authorities' findings and has taken to the courts to push back against them.⁹⁶ Even in the settlement with the EU, Amazon rejects the Commission's assessment.⁹⁷

The UK's Competition and Markets Authority is currently working on a similar investigation. In Germany, the competition authority has labelled Amazon a company of paramount significance for competition across markets and is currently investigating its pricing policies.⁹⁸

The mounting investigations and fines indicate that competition authorities across Europe are aware that there is a problem with Amazon's marketplace. However, there has not yet been a definitive solution. Höppner has commented: "Thus far antitrust law enforcement in Europe was not particularly effective. One of the reasons is that various authorities only looked at particular individual issues and approached them on a 'case-by-case' basis. By the time one identified problem was seemingly solved, Amazon had long made amendments elsewhere with the same effect. We require a more holistic approach that considers the entire Amazon ecosystem and the various interdependencies within."

With the upcoming implementation of the EU's Digital Markets Act, the company will likely be designated as a gatekeeper: a company with "significant impact" and entrenched dominant position that acts as a "gateway" for businesses to reach end-users.⁹⁹ As a gatekeeper, Amazon will have to follow new rules regarding how it interacts with its business users including allowing sellers to offer their products on other marketplaces at different prices (Article 5.3), not obliging business users to pay for one of its services in order to use its platform (Article 5.8), limiting the way Amazon uses non-public seller data to compete with them (Article 6.2), and preventing Amazon from giving top billing in search results to its own products or sellers that have acquired extra Amazon services (Article 6.5).

While achieving some improvements for sellers, the Digital Markets Act and the so far concluded investigations still do not address sellers' lock-in to the platform, their limited power vis-à-vis the tech giant, or the inherent conflicts of interest arising from Amazon's role as intermediary, service provider, and competitor to retailers. It is also concerning that the company might be using its automated systems to circumvent previous competition rulings, as seen with the price parity clause case.

Some of the sellers we spoke with are looking for more structural solutions. Diederik, for instance, told us:

"If I could wish something, I will say [that] Amazon has to be split up into two corporations. Different corporations. One is the platform and the other is the seller. But I don't know if there is any chance. It is simply not fair."

Recommendations

Amazon enjoys monopoly power in Europe that allows it to squeeze sellers with excessive fees and force them to buy additional services.

Amazon's immense profits are in a sense the flipside of large swaths of EU and UK businesses being forced to scratch a living under heavy competitive pressure. Among other things, this gives Amazon an enormous war chest to lobby to preserve its privileges,¹⁰⁰ which independent businesses with squashed margins cannot afford.

Small and medium-sized businesses across Europe, alongside local commerce and users, need to be protected from such outsized power. In Europe so far, the approach has been to tackle each problem individually by imposing hard-to-monitor and hard-to-enforce behavioural remedies. Competition authorities have been trying to treat the symptoms rather than fixing the problem: Amazon's monopoly power.

It is time to adopt a structural and holistic response. This will require that competition authorities and policymakers:

- Overhaul their approach to antitrust enforcement: move beyond the consumer welfare standard, prioritise investigations into exploitative abuses, and tackle the root of market power by putting structural remedies back in play and using merger control to prevent market dominance from happening in the first place.¹⁰¹
- Investigate Amazon's structure and the conflicts of interest at the centre of its business model. To tackle its monopoly power once and for all, authorities should either strictly regulate Amazon as a public utility or break up its different businesses to prevent the conflicts of interest between its role as a platform intermediary, seller, and service provider.
- At the very least, start probing Amazon's fair pricing policy and its impact on prices on and off the platform; Amazon's sponsored search results and the impact they have on sellers and prices; and the impact of Amazon's growing fees on prices across the economy.
- Implement recently agreed policies like the Digital Markets Act in a bold way. This will require that the authorities overseeing these policies are well resourced, have in place measures to prevent regulatory capture, and take active stances towards how Amazon has to change the way it works in order to comply with requirements, especially when it comes to pricing controls and the use of business users' data.

- Force Amazon to publicly explain its automated systems, including in relation to price monitoring, awarding the Buy Box, and advertising. Many of Amazon's business practices are covered by a veil of secrecy that prevents users, civil society, the media, and academics from investigating the company fully and identifying unfair behaviour. Creating public accountability will be essential to ensure Amazon's compliance.

In addition, we need to think beyond limiting Amazon's power. With the growing focus on the digital transition, we need to ensure that the economy that is being built is sustainable, fair, democratic, and pluralistic. As a first step, this requires that we move away from the current model of excessive market power wielded by a few corporate actors like Amazon. It also means that alternative models need to be developed. European policymakers can jumpstart this by prioritising value-led innovation and investing in the digital commons and public digital infrastructure¹⁰².

Only this way can we ensure that the promise of an empowering and fair digital transition is achieved.

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Colophon

Amazon's European chokehold

Independent sellers and the economy under Amazon's monopoly power

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