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ROB BONTA

Attorney General

Attorney General Bonta Announces Lawsuit Against Amazon for Blocking Price Competition

Press Release / *Attorney General Bonta Announces Lawsuit Against Amazon for ...*

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Alleges that Amazon engaged in anticompetitive practices that stifled competition and caused increased prices throughout California

SAN FRANCISCO – California Attorney General Rob Bonta today announced a lawsuit against Amazon alleging that the company stifled competition and caused increased prices across California through anticompetitive contracting practices in violation of California’s Unfair Competition Law and Cartwright Act. In order to avoid competing on prices with other online e-commerce sites, Amazon requires merchants to enter into agreements that severely penalize them if their products are offered for a lower price off-Amazon. In today’s lawsuit, Attorney General Bonta alleges that these agreements thwart the ability of other online retailers to compete, contributing to Amazon’s dominance in the online retail marketplace and harming merchants and consumers through inflated fees and higher prices.

“For years, California consumers have paid more for their online purchases because of Amazon's anticompetitive contracting practices,” **said Attorney General Bonta.** “Amazon coerces merchants into agreements that keep prices artificially high, knowing full well that they can't afford to say no. With other e-commerce platforms unable to compete on price, consumers turn to Amazon as a one-stop shop for all their purchases. This perpetuates Amazon's market dominance, allowing the company to make increasingly untenable demands on its merchants and costing consumers more at checkout across California. The reality is: Many of the products we buy online would be cheaper if market forces were left unconstrained. With today's lawsuit, we're fighting back. We won't allow Amazon to bend the market to its will at the expense of California consumers, small business owners, and a fair and competitive economy.”

Amazon's market dominance: “We have nowhere else to go and Amazon knows it”

Amazon is the dominant online retail store in the United States with more than 160 million Prime members nationwide and around 25 million customers in California alone. According to one survey, 96% of all Prime members said that they are more likely to buy products from Amazon than any other online store, and 74% of all consumers go directly to Amazon when they are ready to buy a specific product.

Because of this, Amazon is a must-have distribution channel for merchants. Indeed, more and more third-party sellers join Amazon every day, despite the fact that the total cost of selling on Amazon far exceeds that of selling in other online stores. As one seller put it, “We have nowhere else to go and Amazon knows it.” Another said, “There is no viable alternative to Amazon for my business.”

Blocking price competition

Amazon has orchestrated the substantial market power it now enjoys through agreements at the retail and wholesale level that prevent effective price competition in the online retail marketplace. Merchants must agree not to offer lower prices elsewhere — including competing sites like Walmart, Target, eBay, and, in some cases, even on their own websites — and to accept drastic penalties like loss of the “Buy Box” on Amazon or to “compensate” Amazon if other online stores do lower their prices. Merchants that do not comply face sanctions such as less prominent listings and even the possibility of termination or suspension of their ability to sell on Amazon.

Without basic price competition and different online sites trying to outdo each other with lower and lower prices, prices artificially stabilize at levels higher than would be the case in a competitive market. This occurs not because Amazon competed successfully or because it is a more efficient retailer and marketplace, but because Amazon forbids it through coerced agreements.

Amazon's market power leaves merchants with few options other than to accede to its demands. Amazon can — and has — raised its prices and reduced the quality of its offerings, while maintaining almost all of its merchants and customers. Amazon has used this market power to raise its fees to sellers.

Sellers report that because they “pay less in fees on our own and other websites, we could sell our products for lower prices on these websites,” but “we do not do this” because “if we do, Amazon will disqualify [our] offers from the Buy Box.” One e-commerce consultant reported that Walmart, eBay, and other sites “charge much lower fees” than Amazon. “Because the cost to sell on these other websites is lower, my clients would like to offer lower prices on them.” However, “my clients do not offer lower prices on those websites because doing so would result in the suppression of the Buy Box for their Amazon listing.”

Attorney General's lawsuit against Amazon and requested relief

In today's lawsuit, Attorney General Bonta alleges that these price parity agreements have expanded and entrenched Amazon's market power as an online retail store, impeded rivals, and resulted in pricing above competitive levels in California in violation of the Unfair Competition Law and the Cartwright Act.

The Attorney General's lawsuit seeks an order from the San Francisco Superior Court that stops Amazon's anticompetitive behavior and recovers the damages to California consumers and the California economy. Specifically, the lawsuit asks the Court to:

- Prohibit Amazon from entering into and enforcing its anticompetitive contracts that harm price competition;
- Require Amazon to affirmatively notify vendors that it does not require sellers to offer prices on par with off-Amazon prices;
- Appoint a Court-approved monitor, to ensure Amazon's compliance with the Court's order;
- Order damages to compensate for the harms to consumers through increased prices; and
- Order Amazon to return its ill-gotten gains and pay penalties to serve as a deterrent to other companies contemplating similar actions.

A copy of the complaint, which was submitted to the Court today, is available [here](#).

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