

Amazon: EC Investigation to Focus on Whether Amazon Uses Data to Develop and Favor Private Label Products; Former Employees Say Data Key to Private Label Strategy

EU Investigation and Proposed Regulation

At the end of September, European Competition Chief Margrethe Vestager announced at a [press conference](#) that the European Commission (EC) had begun a preliminary investigation into competition concerns around Amazon's (AMZN) use of data gained from smaller merchants on its platform. Amazon's use of data to undermine its competitors or otherwise favor itself are the most obvious types of harms that the EC will investigate.

Comment from the EC. A Commission spokesperson provided *The Capitol Forum* with the following information:

- “The Commission has started a preliminary antitrust investigation into Amazon's business practices. This follows-up on concerns raised by retailers in the course of the e-commerce sector inquiry of 2017 about so-called "dual-role" platforms.
- A typical example for such a dual role platform is Amazon, which, on the same website, offers marketplace services to third party sellers and sells products as an online retailer in direct competition with those third party sellers.
- Amazon might thereby gain access to competitively sensitive information about competitors' products which it could use to boost its own retail activities at the expense of third party sellers on its marketplace.
- The purpose of the preliminary investigation is to verify whether these concerns have any merits and need to be followed up.”

The Capitol Forum spoke to three former Amazon employees regarding what the EC might discover in its investigation. Each former employee asked to remain anonymous due to concerns about the impact their comments might have on their careers. Amazon declined to comment.

Data Drives Private Label Strategy

Amazon's strategy to identify which products to private label and to ensure that its private label products beat competitors' products on the Amazon marketplace are likely areas of investigation

for the EC. Former employees describe the use of data as critical to the overall strategy and success of Amazon private label brands.

If the EC finds Amazon's data use to be anticompetitive, such a finding would likely make it difficult for Amazon to continue its private label strategy in the EU.

Amazon keeps the most valuable data for itself; provides less valuable data to marketplace sellers. The “most valuable info Amazon doesn't share is info about which people have searched for a particular product in the past,” a former Amazon employee told us.

Consideration data allows Amazon to “target their private label products with perfect precision,” because Amazon “knows exactly who to go to, who bought in the past, and who searched and didn't buy.” “At the end of the day I don't have to build the best mousetrap, I just need to know how to market it,” the former employee said.

“Amazon's own algorithm favors products that have high conversion,” he added, “so I can artificially inflate my ranking by using the consideration data I have that I don't give third-party sellers access to.”

In addition to consideration data, search data is also highly valuable. Another former Amazon employee told us that although third-party sellers have access to sessions [*i.e.* traffic to their listing] and retail conversion on their products, Amazon's retail team “has access to the A9 search result—we know that x number of people searched for a certain product and this many people bought it.” A9 is the name of Amazon's search algorithm.

“What's super valuable from a seller perspective is search data,” agreed a third former employee. “The way that most people find products on Amazon is search,” and if I were a seller, “I'd want to know what are the terms people are using to find my product,” he said.

The sellers don't know how a customer got to their product listing page, what terms they searched for, or if they come through an ad. “In my opinion that's the most valuable data,” he added, saying that getting discovered among millions of product listings is half of the battle.

Price sensitivity data provides ideal price points for Amazon to launch private label products. In addition to Amazon's ability to see how many units of each product sell at a particular price point to whom, its “discount provided by Amazon” practice allows it to “conduct a controlled experiment” on third-party sellers' products, said a former employee.

Last November, WSJ [reported](#) that Amazon was discounting prices for products offered by third-party sellers, without their knowledge or consent. Amazon would subsidize the discount and refund the seller, who had no ability to opt out of the discounting program.

The discounting practice allowed Amazon to get price sensitivity data on products Amazon does not itself sell, explained the past employee. Amazon could learn, “if we raise the price a dollar, we get this demand, and here’s the demand at a lower price point,” to precisely identify the optimal price point to launch their own version of the product.

Access to data by Amazon employees is pervasive. “Everybody has access to all the seller data,” including “who purchased what, what products were selling,” one former mid-level employee told us. This means Amazon employees can “data mine all the best-selling products and go make a private label.”

“I can tell you specifically what I did,” the former employee said. “I had access to a data warehouse as an employee at Amazon and could literally pull up any transaction from any seller.” He continued, “I had access to every single sale and was data mining the hell out of it for my job.”

Data is key to decision-making. “Anything you put down on a piece of paper in front of an executive, it all has to be data driven,” said one former employee.

“You don’t go into a meeting at Amazon and propose something without data—you would never do that,” he said. “People would say, ‘where’s your proof?’” he continued, “If someone proposes that Amazon launches a product, I guarantee they would pull up every sale of every similar product.”

What it’s like to propose a new private label product. One former employee walked through a hypothetical new private label product proposal process:

“Let’s say Amazon wants to get into folders. I would find all of the ASINs that are being sold on the website now. I’d pull up the history. I’d look at the volumes, price points. Regardless of whether it was sold wholesale or third party, I’d pull it all together. I’d look and see what’s the hottest product. What’s the hottest variation in color? We’d have these folders in these colors at this price point, and we’d go off and make it ourselves.”

According to one former employee, Amazon’s advantage is insurmountable. One former Amazon employee told us third-party sellers are at a huge disadvantage when Amazon sells on its own platform.

“If Amazon owns a product, it’s almost impossible for anyone to compete,” he said. “Even if you make a better product, you can’t market it to anyone—Amazon owns the customers, pricing, merchandising, marketing and all the data to know which products to build, to whom and when.” Amazon is “the perfect knock off artist, and they don’t have to make any money off of it,” he added.