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Press Release

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NEW PHOENIX CENTER STUDY FINDS FLAWS IN FEDERAL TRADE COMMISSION'S ANTITRUST COMPLAINT AGAINST AMAZON

Publicly available data show that Amazon charges lower prices than its rivals and its third-party seller fees and advertising practices are typical for online marketplaces

WASHINGTON, D.C. — Late last year, the Federal Trade Commission ("FTC"), joined by seventeen state Attorneys General, filed an antitrust suit against Amazon. The FTC's legal theory, rooted in Section 2 of the Sherman Act and Section 5(a) of the FTC Act, is that Amazon is illegally attempting to monopolize the "Online Superstore Market" and the "Online Marketplace Services Market" and is using its alleged monopoly power to engage in "unfair methods of competition." To support its claim, the FTC levies several charges against Amazon, including: (1) Amazon has "quietly and deliberately raised prices for shoppers" and is "overcharging its customers"; (2) Amazon "has hiked [] steeply the fees it charges sellers"; and (3) advertising by third-party sellers on the platform "degrade[s] the services it provides" to consumers. In concert, the FTC asserts Amazon's actions cause harm by "inflating prices and degrading quality for both shoppers and sellers."

In a new analysis released today entitled *Amazon: A Monopolist That Undersells Its Competitors?*, Phoenix Center Chief Economist Dr. George S. Ford tests the veracity of the FTC's claims. Dr. Ford finds them wanting.

For example, the FTC's case against Amazon asserts that the company's conduct is "inflating prices and degrading quality for both shoppers and sellers." Yet, using publicly available data, Dr. Ford finds that the FTC's claim lacks any empirical support. Amazon's prices are, on average, lower than other large online retailers.

Dr. Ford also finds FTC's claim that Amazon is charging excessive fees to third-party sellers to be untrue. The data reveal that Amazon's third-party seller fees are consistent with other online marketplaces.

Finally, as for the FTC's claim that Amazon degrades the consumer experience by allowing third-party sellers to advertise on Amazon's website, Dr. Ford demonstrates that the practice is commonplace if not ubiquitous for retail.

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"Based on my review of publicly available data, it is unclear what harm the FTC's case against Amazon seeks to remedy," says study author Phoenix Center Chief Economist Dr. George S. Ford. "With no cognizable harm to consumers or third-party sellers, maybe the case against Amazon falls into the 'big is bad' category, which is consistent with the current Neo-Brandeisian thinking of leadership at the nation's antitrust authorities. Under modern antitrust case-law and in economics, big is not necessarily bad, and the absence of harm to consumers and third-party sellers presents a challenge for the FTC's case."

A full copy of PHOENIX CENTER POLICY BULLETIN NO. 67, *Amazon: A Monopolist That Undersells Its Competitors?*, may be downloaded free from the Phoenix Center's web page at: https://www.phoenix-center.org/PolicyBulletin/PCPB67Final.pdf.

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