### (Approx. 791 words)

### Does Amazon Have Too Much Power? (*Opinion)*

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I have been an Amazon Prime member for a couple of years and, like many people, have regularly made small and large purchases through Amazon. I enjoyed the fast, often two-day “free” shipping for a time with Prime, although more recently, this turned into two-week shipping on my sandals from Zappos (an Amazon subsidiary). The protection Amazon gives consumers is second to none in the online or offline world.

Amazon has become THE dominant online retailer in America, accounting for over 50% of online retail purchases in the United States. Despite most formerly 100% brick and mortar operations such as Walmart, Home Depot, Target, and Best Buy, moving into online selling.

Amazon’s third-party marketplace, made up of millions of merchants, has become a critical part of Amazon’s e-commerce business. The marketplace now accounts for more than half of Amazon’s overall sales.

With Amazon’s massive size comes power. It would be a miracle (and downright un-capitalistic) if Amazon did not take advantage of its enormous size. Sadly, in recent years, Amazon has been using its power to force consumers to pay more for an item than they would otherwise pay if Amazon did not exist.

I can anecdotally attest to this as a result of my personal experience. I enjoy shopping online, at least much more than I like physically visiting a retail store. Therefore, I search a number of online resellers for each purchase, getting a good idea of who has the best price.

I continued to shop online at Amazon and other sellers for many years, sometimes finding that Amazon had the best price, yet also often finding a better buy elsewhere. Finally, I made a game of it and enjoyed finding a better price (including tax & shipping) on sites other than Amazon. I did this a little out of jealousy (I have never owned Amazon stock) and because of a nagging feeling that Amazon and Jeff Bezos were taking over the world.

I have found it increasingly difficult to find a better price than Amazon’s on many popular items in recent years. I did not know how or why, but the rules seemed to have changed.

## The Anti-Trust Lawsuit

On May 25, 2021, the Washington, D.C. Attorney General, Karl Racine, announced he was suing Amazon on antitrust grounds, claiming the company’s practices have unfairly raised prices for consumers and blocked innovation. The lawsuit alleges Amazon illegally maintained monopoly power through pricing contracts with third-party sellers. An Amazon spokesperson said Tuesday: “The DC Attorney General has it exactly backward — sellers set their prices for the products they offer in our store.” I believe this is untrue.

Karl Racine seeks to end what he alleges is Amazon’s illegal use of price agreements to reduce competition; the lawsuit also asks for damages and penalties to deter future similar conduct. In addition, the suit asks the court to block Amazon’s ability to harm competition by imposing a variety of reliefs, up to and including breaking up Amazon.

## How Amazon Raises Prices

The lawsuit, filed in D.C. Superior Court, alleges Amazon illegally maintained monopoly power by using contract provisions to prevent third-party sellers on its platform from offering their products for lower prices on other platforms. According to a press release, the attorney general’s office claimed the contracts create “an artificially high price floor across the online retail marketplace.” In addition, Racine stated that these agreements ultimately harm both consumers and third-party sellers by reducing competition, innovation, and choice.

Amazon requires third-party vendors who want to do sell on Amazon to abide by its business agreement. Until 2019, Amazon included a clause in that agreement that prohibited sellers from offering their products on a competitor’s online marketplace at a lower price than what their products sold for on Amazon. Amazon removed that rule in March 2019 as it faced growing antitrust scrutiny.

The complaint alleges that even after Amazon removed the “no cheaper” pricing provision from its agreements with third-party sellers, it added an identical policy called its “fair pricing policy.” The fair pricing policy enables Amazon to “impose sanctions” on a seller that offers their product for a lower price on a competing online marketplace.

## Do Sellers Really Set Their Own Prices?

Yes, they do – but only as long as they follow Amazon’s pricing rules. Amazon’s pricing agreements were also a topic of scrutiny in the House Judiciary subcommittee. In their final report, lawmakers agreed that Amazon uses its dominant position in e-commerce as leverage with third-party sellers to require they adhere to pricing restrictions.

These clauses are at least anti-competitive, especially when a company like Amazon has virtual monopoly powers.