Dear Chair Khan and Commissioners:

As you know, last week, the Federal Trade Commission and 17 state attorneys general filed a major antitrust lawsuit against Amazon in response to its exclusionary and unfair business practices to illegally maintain its monopoly power. On behalf of America's consumers and small businesses, we strongly applaud this move. Given the extensive evidence in the public record of monopolistic behavior by Amazon, we encourage you to be aggressive in your pursuit of these charges as well as the needed structural remedies.

Amazon notoriously uses its market dominance to drive out competitors, and to undermine small businesses by trapping them in a marketplace it owns and manipulates to subject them to further predatory exploitation. For years Amazon has bolstered its own profits and consolidated its grip over the online marketplace, while exploiting consumers, workers, and small businesses to enrich itself.

Third-party Amazon sellers bear the brunt of the abuse. Over 85% of them are small businesses generating under $100,000 a year in revenue. Sellers like these effectively have no choice but to participate, since Amazon has monopolized the ecommerce marketplace. But they are charged ruinous prices for placement on Amazon's platform, and they are constantly at the whim of Amazon's inconsistent and unpredictable policy enforcement. Amazon engages in coercive and unfair tactics to continue subjecting sellers to these conditions, including punishing sellers in Amazon's search results for offering lower prices elsewhere and requiring them to buy Amazon's sales fulfillment services in order to qualify for "Prime" eligibility for their products.

Sellers in the Amazon marketplace also currently have no real protection against unfair competition by Amazon itself in that marketplace, which has devastated scores of earnest small business sellers. With the support of its enormous production and marketing capacity, the company frequently rips off third-party product designs, slaps an "Amazon Basics" label on the packaging, and gives its own products placement priority on its platform to crush competitors.

This practice, which happens in public view, violates Amazon's own policies. But in 2021 Amazon was called out for trying to mislead Congress when it claimed it does not use data collected from third-party sellers on its platform to make copycat products.

Amazon's dominance means it can charge sellers whatever it wants, and the company took a 34% cut of third-party sales on its platform in 2021, up from 19% in 2014. This makes the marketplace
business very profitable for Amazon: as of 2018, Amazon's margin on third-party seller fees was 20%, while the typical retail sales margin is just 5%. Amazon lost money for years while engaging in predatory pricing to build its market share; now, it's making it up by hijacking the revenue of third-party sellers that have no choice but to sell through Amazon's marketplace. Shockingly, as the Complaint notes, all of these fees force many sellers to pay close to 50% of their total revenues to Amazon.

Amazon's monopolistic practices being challenged in the landmark antitrust lawsuit also mean sellers are beholden to arbitrary changes in fees and policies, often without notice. Just last year, during the holiday season, Amazon notified third-party sellers that it was imposing a "peak holiday fulfillment fee" of 35 cents per item, from mid-October to mid-January. Given that the third-party margins on some categories, like books, are measured in pennies, a surprise 35-cent fee abruptly made some sellers' businesses unsustainable. Stacy Mitchell, co-director of the Institute for Local Self-Reliance, estimated that this fee alone would generate an additional $300 million in revenue for Amazon. And sellers who raise prices to cover fees like these can be punished by Amazon, by having their products appear less often in customer searches.

Amazon has also been found to use deceptive marketing practices to keep Prime members subscribed. Their own internal documents have shown that parts of the subscription process are opaque and deceptive, but Amazon executives declined to make changes. One employee described Amazon's efforts to lock customers into Prime this way: "We have been deliberately confusing."

Amazon and other Big Tech firms use their endless stream of big money to lobby away any attempt at accountability. Amazon spent almost $20 million on lobbying in 2022 alone. Combined with Apple and Meta's contributions, the three companies collectively spent $95 million in 2022 to derail the American Innovation and Choice Online Act (AICO), an attempt in Congress to protect consumers by stamping out these very practices. Amazon also frequently teams up with dark money groups like the Competitive Enterprise Institute to squash any calls for reform through lobbying, ads, and dismissive rhetoric.

Amazon's actions prove it has no interest in promoting or participating in a free and fair market, let alone be trusted to regulate itself. We applaud the FTC for taking this opportunity to protect consumers and small businesses, and hope their efforts result in fundamental changes in Amazon. Given that corporate concentration is about more than economics—it's about power, who has it, and how it's used and abused—this lawsuit is an important step on the path to protecting consumers, workers, innovation, and competition in the American marketplace.

Sincerely,

Accountable Tech
American Economic Liberties Project
American Family Voices
Blue Future
Center for Digital Democracy
Demand Progress
Democracy for America Advocacy Fund
Economic Security Project
Ekō
Farm Action
Fight for the Future
Future of Music Coalition
Good Jobs First
Institute for Local Self-Reliance
Keystone Progress
Lake Research Partners
Liberation in a Generation
Main Street Alliance
MoveOn
National Employment Law Project
NextGen Competition
Oil Change International
Other 98%
Our Revolution
P Street
Presente
Progress America
Public Citizen
Responsible Online Commerce Coalition
Revolving Door Project
RootsAction.org
Social Security Works
Surveillance Technology Oversight Project
TakeItBack.org
Tech Oversight Project
UltraViolet Action
Working Families Party
The X-Lab