# A War on Third-Party Sellers

## How Amazon Uses Private Brands to Enhance Monopoly Power

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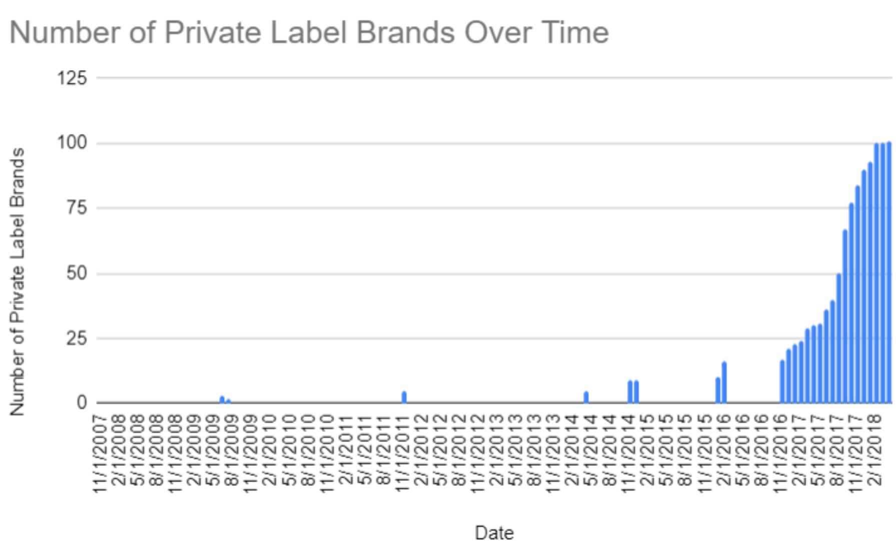
# Private Brands: A Secret Weapon for Monopolists

Antitrust policy in the United States has brought public and litigious scrutiny to firms attempting to expand market power at the expense of healthy competition. Perhaps one of the most concerning examples of unequal market power distribution is Amazon and the e-commerce market. With a market cap of $1,337.5 billion, five times greater than its largest competitor, Amazon controls 37.8 percent of the American e-commerce. While many of Amazon's practices– most notably how it fosters seller-dependency through its large market size or its exorbitant seller fees– have come under frequent regulatory and social condemnation, Amazon has covertly enhanced its monopoly power through its "private brands".

A private brand is developed when a retailer finds a manufacturer to make a "white label" version of an already branded product. The manufacturer then puts the retailer's name on the product and sells it for 25 to 40 percent less than the national brand-name product. For example, the company PeakDesign produced and sold camera bags and accessories on Amazon, but in 2021, Amazon launched its own Everyday Sling Bag that strikingly resembled PeakDesign's product, albeit at two-thirds the price. Although Amazon first introduced private brands AmazonBasics and Pinzon in 2009, in the past few years, the e-commerce company ramped up private label creation, with a total of 118 private brands brought to market in 2022 alone. Many of Amazon's most popular products, such as Amazon Echo, are private brands.



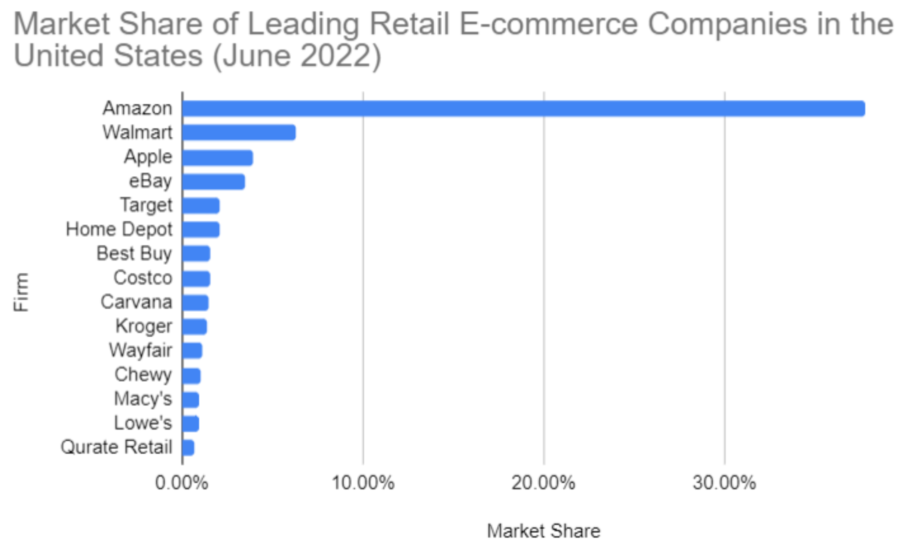

(from Barron's)

Inherently, private brands are competition for external sellers that use the Amazon platform. While Amazon touts sellers as “partners” in public, within the company, it refers to them as “internal competitors”, and private brands are the means of waging an economic war against these competitors.

Through these “private brands”, the e-commerce behemoth further stifles e-commerce competition– not with other platforms– but with Amazon’s own sellers through the illegal collection of sellers’ data, unethical product placement, prevention of sellers from fighting back price-wise, and predatory pricing.

## Amazon’s Espionage on Sellers

In 2020, the Wall Street Journal reported that Amazon employees collected data about independent sellers on the company’s platform to develop competing private brand products, specifically how to price the private brands, which features to copy and which segments to enter based on earning potential. Amazon is “essentially spying” on the sellers that rely on the platform. While it is common practice for a retailer to use data to inform product decisions, Amazon’s position is uniquely concerning given its enormous share of the e-commerce market and sellers’ dependence on Amazon because of this market share. Given that nearly 40 percent of online shopping occurs on Amazon, with 1 in 3 Americans holding an Amazon Prime membership and 9 in 10 shoppers cross referencing prices with Amazon, many sellers feel they can not afford to not sell on Amazon. Sellers’ dependence on Amazon means that any algorithmic change, especially concerning search results, can drastically affect their sales and profitability figures.




(from Statista)

# Product Displacement

After collecting data to determine which products Amazon should make private labels of, it needs to strategically position them. External sellers using the platform are able to bid on search terms to secure the most valuable spot on e-commerce: the top-left, where each individual's sight is drawn first. During the pandemic, Amazon began placing its private brand products in the top-left position: searching "Almonds", would yield Amazon's Happy Belly brand whole raw almonds; searching "bra" would show Amazon's Iris & Lilly brand. While placing its brands in preferred spots would mean sacrificing ad revenue from external sellers, Amazon counters this "lost" revenue by augmenting the sales of its private brands over time. By placing its products in the most salient positions on its website, Amazon attempts to make certain the success of its brands, thereby letting the platform "win in the long term". Additionally, Amazon exploits an advantage for the top spot: while sellers need to bid up to 30 percent of their sales for top spot placement, Amazon pays nothing.

## Keeping Sellers Trapped

In a world without seller-platform contracts, sellers would move to a different platform with fairer marketing practices. So to secure its private brands' power, Amazon prevents sellers from leaving, thereby forcing sellers to remain in an inferior marketing position. Amazon enforces a "Fair Pricing Policy", where if pricing bots detect that a seller has lower prices on other platforms, then Amazon can demote the seller's item in search results, significantly affecting their sales. Amazon's policy thus forces sellers to keep prices at or above their Amazon prices (which are higher than prices for Amazon's private brands): it "insulates Amazon from competition and preserves its dominance". In April 2021, Amazon began blocking sellers from seeing the names and addresses of the people buying their products. By limiting contact between sellers and customers, Amazon prevents sellers from building direct relationships with customers, furthering sellers dependence on the platform and eliminating any possibility of sellers moving off Amazon for e-commerce.

## Stealing the Customers

The last stage of the war on sellers is predatory pricing, that is, selling products and services, allowing Amazon to drive demand to its own products and reign in competitors. Private brands sell up to 40 percent lower than normal brands, diverting consumer interest in categories ranging from clothing to home goods all towards Amazon's products. Amazon's ability to control consumer interest, and ultimately sales, for its sellers gives it leverage to exploit. For example, Amazon only removed its private branded phone accessory products until seller Pop-sockets agreed to purchase $2 million in advertising. The e-commerce giant has a history of predatory pricing to debilitate competition. Amazon lost $150 million selling shoes and diapers at below-market cost in order to force competitors Zappos and Diapers.com to agree to mergers. Concerningly, Amazon has demonstrated willingness to sacrifice short-term profits. Recently, Amazon has begun to cross-subsidize losses by using profits from the platform's cloud-computing service, AWS, which makes up an ample 59 percent of Amazon's operating income.

# Enter the FTC

Fortunately, the United States federal government shares the view that Amazon's private brands are a tool used to wage an anti-competition war with digital sellers, bringing a new edge in the fight against Amazon. In September 2023, the FTC– in one of the "most significant challenges to… in the company's nearly 30-year history"– sued Amazon for use of anticompetitive practices, specifically highlighting how Amazon punishes online sellers for offering lower prices than Amazon and how Amazon biases search results to favor private brands. In response to regulatory scrutiny, Amazon began a retreat: cutting down on private brands. While the exact number of private brands set to be eliminated is not known, the Wall Street Journal estimates that Amazon now has less than 20.

While the use of private brands has largely been set aside, Amazon continues to enforce monopoly power over digital sellers, mainly through the fees it charges sellers. On average, Amazon keeps 30 percent of all sales that independent sellers make through the platform, with total revenue from such fees reaching $60 billion in 2019. These fees make it "nearly impossible to sustain a business": From 2007 to 2017, as Amazon expanded, the number of small retailers decreased by 60,000. Beyond private brands, a major component of the FTC case targets the exorbitant fees (totaling up to 50 percent of sales) that independent sellers– already dependent on Amazon due to its 40 percent market share of e-commerce– are forced to pay to Amazon.

# Question for Maryland

We should question Amazon's dual roles, as a player and a judge on the e-commerce market. Its monopoly as No. 1 E-commerce platform in the US has been greatly benefiting the company. However, its' entering the sale side with subsidies from other Amazon businesses, preferential treatments on its own product over competitors' product and many other questionable operations and practices are hurting the public interest which favors for a fair market.

# Further Reading


1. Amazon entry on Amazon Marketplace - Zurich Open Repository and Archive : https://www.zora.uzh.ch/id/eprint/229851/
2. Firm Strategies in the "Mid Tail" of Platform-Based Retailing : https://pubsonline.informs.org/doi/abs/10.1287/mksc.1110.0656
3. Amazon's Trickle-Down Monopoly: Third-Party Sellers and the Transformation of Small Business : https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4317167
4. Does Amazon steal product ideas from third-party retailers? | Fox Business : https://www.foxbusiness.com/technology/does-amazon-steal-third-party-data.amp
5. Amazon Scooped Up Data From Its Own Sellers to Launch Competing Products : https://www.wsj.com/articles/amazon-scooped-up-data-from-its-own-sellers-to-launch-competing-products-11587650015
6. Amazon copied products and rigged search results, documents show : https://www.reuters.com/investigates/special-report/amazon-india-rigging/