



Newsroom

AG Racine Files Antitrust Lawsuit Against Amazon to End its Illegal Control of Prices Across Online Retail Market

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Amazon Has Illegally Used and Maintained its Monopoly Power, Raising Prices for Consumers & Stifling Competition in Online Retail Sales by Imposing Restrictive Agreements on Third-Party Sellers

WASHINGTON, D.C. – Attorney General Karl A. Racine today filed an antitrust lawsuit against Amazon.com, Inc., (Amazon) seeking to end its anticompetitive practices that have raised prices for consumers and stifled innovation and choice across the entire online retail market.

The Office of the Attorney General (OAG) alleges that Amazon fixed online retail prices through contract provisions and policies it previously and currently applies to third-party sellers on its platform. These provisions and policies, known as “most favored nation” (MFN) agreements, prevent third-party sellers that offer products on Amazon.com from offering their products at lower prices or on better terms on any other online platform, including their own websites. These agreements effectively require third-party sellers to incorporate the high fees charged by Amazon – as much as 40% of the total product price – not only into the price charged to customers on Amazon’s platform, but also on any other online retail platform. As a result, these agreements impose an artificially high price floor across the online retail marketplace and allow Amazon to build and maintain monopoly power in violation of the District of Columbia’s Antitrust Act. The effects of these agreements continue to be far-reaching as they harm consumers and third-party sellers, and suppress competition, choice, and innovation. OAG is seeking to put an end to Amazon’s control over online retail pricing, as well as damages, penalties, and attorney’s fees.

“Amazon has used its dominant position in the online retail market to win at all costs. It maximizes its profits at the expense of third-party sellers and consumers, while harming competition, stifling innovation, and illegally tilting the playing field in its favor,” **said AG Racine.** “We filed this antitrust lawsuit to put an end to Amazon’s illegal control of prices across the online retail market. We need a fair online marketplace that expands options available to District residents and promotes competition, innovation, and choice.”

Amazon is the world’s largest online retailer, controlling [50-70%](https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf) of the online market sales. Amazon sells its own products, and some products it sources wholesale from major manufacturers, through its online platform. It also allows independent third-party sellers to sell their own products on Amazon.com through what it calls “Amazon Marketplace.” Because of the company’s dominance and vast base of customers, over two million independent third-party sellers rely on Amazon Marketplace.

In 2019, Amazon claimed to have removed its price parity policy that explicitly prohibited third-party sellers from offering their products on a competing online retail sales platform, including the third-party sellers’ own website, at a lower price or on better terms than offered the products on Amazon. But in fact, Amazon quickly and quietly replaced the price parity policy with an effectively-identical substitute, its Fair Pricing Policy. Under the Fair Pricing Policy, third-party sellers can be sanctioned or removed from Amazon altogether if they offer their products for lower prices or under better terms on a competing online platform.

The lawsuit alleges that the pricing agreements Amazon imposes on third-party sellers are facially anticompetitive and allow Amazon to illegally build and maintain monopoly power in the online retail market in violation of the District of Columbia’s Antitrust Act. Specifically, the lawsuit alleges that Amazon:

- **Raises prices for consumers:** Amazon’s MFNs harm consumers by artificially inflating prices they pay for products purchased across the online retail market. When third-party sellers sell on Amazon, they must pass on the cost of Amazon’s high fees and commissions to consumers. While third-party sellers can sell their products for lower prices on other platforms and on their own websites, where fees are lower or non-existent, Amazon’s MFNs prevent sellers from passing on these savings to consumers. These agreements create an artificially high price “floor” across the entire online market and prevent other platforms from enticing consumers away from Amazon with lower prices and gaining market share. Without these restraints, products would be available to consumers at lower prices.

- **Stifles competition in the online retail market:** Amazon maintains its dominance in online retail by preventing other platforms from competing on price to win market share. The most important factor in online shoppers' purchasing decisions is price. By ensuring that third-party sellers cannot offer lower prices elsewhere online, Amazon insulates itself from meaningful competition.
- **Deprives consumers of choice:** Amazon's anticompetitive actions have resulted in less choice for consumers in the online retail market, suppressed innovation, and reduced investment in potentially-competing platforms.

With this lawsuit, OAG is seeking to end Amazon's use of illegal price agreements to foreclose competition and maintain its monopoly in online retail sales. Additionally, the lawsuit seeks to recover damages and impose penalties to deter similar conduct by Amazon and other companies.

The complaint, filed in D.C. Superior Court, is [available here](https://oag.dc.gov/sites/default/files/2021-05/Amazon-Complaint-.pdf) (<https://oag.dc.gov/sites/default/files/2021-05/Amazon-Complaint-.pdf>).

Background

OAG has a long record of holding companies accountable for antitrust violations and stopping the harmful use of non-compete agreements in the workplace. OAG joined a coalition of attorneys general in filing a [lawsuit against Facebook Inc](https://oag.dc.gov/release/ag-racine-joins-multistate-lawsuit-seeking-end) (<https://oag.dc.gov/release/ag-racine-joins-multistate-lawsuit-seeking-end>), in December 2020, alleging that the company has engaged in a pattern of illegal acquisitions and exclusionary conduct to stifle competition and maintain its overwhelming market dominance. OAG also joined a multistate group of attorneys general in [suing Google, Inc.](https://oag.dc.gov/release/ag-racine-joins-multistate-lawsuit-seeking-end-0) (<https://oag.dc.gov/release/ag-racine-joins-multistate-lawsuit-seeking-end-0>), in December 2020 for exclusionary conduct to maintain or establish its dominance in search and advertising markets. And OAG [sued Facebook](https://oag.dc.gov/release/ag-racine-sues-facebook-failing-protect-millions) (<https://oag.dc.gov/release/ag-racine-sues-facebook-failing-protect-millions>) over the Cambridge Analytica scandal.

Additionally, OAG joined in multistate settlements with several banks, including [Deutsche Bank](https://oag.dc.gov/release/ag-racine-announces-220-million-multistate) (<https://oag.dc.gov/release/ag-racine-announces-220-million-multistate>), [Barclays](https://oag.dc.gov/release/attorney-general-racine-announces-100-million) (<https://oag.dc.gov/release/attorney-general-racine-announces-100-million>), and [JBS](https://oag.dc.gov/release/ag-racine-announces-68-million-multistate) (<https://oag.dc.gov/release/ag-racine-announces-68-million-multistate>), worth hundreds of millions of dollars, for fraudulent and anticompetitive conduct during the 2007-2008 financial crisis and its aftermath. OAG is actively litigating antitrust cases in the pharmaceutical industry, including a [multistate antitrust lawsuit](https://oag.dc.gov/release/maker-opioid-addiction-treatment-drug-suboxone) (<https://oag.dc.gov/release/maker-opioid-addiction-treatment-drug-suboxone>) against the manufacturers of Suboxone, a prescription drug used to treat opioid addiction, for engaging in an anticompetitive scheme to block generic competition for Suboxone. OAG is also litigating [multistate lawsuits](https://oag.dc.gov/release/ag-racine-joins-coalition-filing-third-lawsuit) (<https://oag.dc.gov/release/ag-racine-joins-coalition-filing-third-lawsuit>) against several manufacturers of generic drugs for allegedly conspiring to fix drug prices, thwart competition, and engage in illegal and anticompetitive trade practices with regard to more than 40 drugs. Additionally, OAG has opposed anti-competitive mergers such as those between [T-Mobile and Sprint](https://oag.dc.gov/release/ag-racine-joins-multistate-coalition-block-t) (<https://oag.dc.gov/release/ag-racine-joins-multistate-coalition-block-t>), [Anthem-Cigna and Aetna-Humana](https://oag.dc.gov/release/attorney-general-racine-joins-state-federal) (<https://oag.dc.gov/release/attorney-general-racine-joins-state-federal>), [Staples and Office Depot](https://oag.dc.gov/release/dc-joins-federal-trade-commission-pennsylvania) (<https://oag.dc.gov/release/dc-joins-federal-trade-commission-pennsylvania>), [Sysco and U.S. Foods](https://oag.dc.gov/release/attorney-general-racine-welcomes-federal-judges) (<https://oag.dc.gov/release/attorney-general-racine-welcomes-federal-judges>), and Fantasy sports sites [DraftKings and FanDuel](https://oag.dc.gov/release/dc-joins-federal-trade-commission-california) (<https://oag.dc.gov/release/dc-joins-federal-trade-commission-california>).

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