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HOW DID AMAZON REACH ITS PRIME?

Mary Serene Carino

Brad Stone, *Amazon Unbound: Jeff Bezos and the Invention of a Global Empire* (2021).

I. INTRODUCTION

Amazon, Inc., (“Amazon”) has singlehandedly changed consumer behavior in e-commerce. Once located in a garage, Jeff Bezos’ empire has become a global phenomenon. Amazon is currently worth \$1.65 trillion and employs 1.3 million people (p. 1).¹ During its early days, Amazon was able to accelerate its growth by creating fulfillment centers, computing infrastructure known as the Amazon Web Services, and introducing Kindle in the e-book market (p. 9). Bezos has investments in every industry, including personally purchasing the Washington Post for \$250 million, creating Amazon Web Services and Alexa, acquiring Whole Foods for \$13.7 billion, venturing into Hollywood vis-a vis Amazon Prime as well as pursuing his personal space passion project, “Blue Origin.”² Bezos’ most recent venture is building a superyacht that will be the world’s largest sailing vessel, set to be completed in 2022 (p. 348).³

While Bezos concedes that “Amazon is not too big to fail,” our society is “run, supplied, and controlled” by Amazon and its founder (p.406). Amazon has positioned itself as a one stop shop which makes it impossible to live a day absent from its impact. However, a key question remains unanswered – is Bezos and his global empire “propelling the world into an exciting future” or “helping to blot out ... free enterprise itself?”⁴

In *Amazon Unbound*, Brad Stone provides an account of how a retail startup company grew to become one of the most influential and feared entities in the global market. Stone aims to “show how seismic changes in Amazon over the past decade led to dramatic innovations, as well as to missteps that turned public sentiment against its sharp-elbowed business practices” (p. 1).

This review addresses Amazon’s extraordinary achievement in the technology space and its omnipresence in different industries since its inception. Part II discusses the ways in which the implementation of Bezos’ leadership principles led to the steady rise of Amazon from a small Seattle-based online bookstore to a worldwide household name. Part III examines Amazon’s unprecedented growth and its position as a global empire despite the COVID-19 pandemic. Part IV discusses the heightened scrutiny directed towards Amazon. Finally, Part V evaluates whether the creation and growth of Amazon has benefitted society.

¹ Laura Woods, *Jeff Bezos Has Stepped Down as Amazon CEO. How Much Is the Iconic Billionaire Worth?*, YAHOO (July 8, 2021), <https://www.yahoo.com/now/jeff-bezos-stepped-down-amazon-203700565.html> (“[In July 2021], Amazon stock continued to climb, achieving a market valuation of \$1.7 trillion.”).

² See generally BRAD STONE, *AMAZON UNBOUND: JEFF BEZOS AND THE INVENTION OF A GLOBAL EMPIRE* (2021).

³ Joe Davis, *Mast-er of the Universe? Jeff Bezos’ £420m Sail-powered Superyacht that will have Three Masts and Be the largest in the World is Glimpsed for First Time at Dutch Shipyard*, THE GUARDIAN (Oct. 2021), <https://www.dailymail.co.uk/news/article-10123135/Jeff-Bezos-420million-superyacht-glimpsed-time.html>.

⁴ Charles Kaiser, *Amazon Unbound Review: How Jeff Bezos Engulfed and Devoured Us All*, THE GUARDIAN (June 20, 2021), <https://www.theguardian.com/books/2021/jun/06/amazon-unbound-review-jeff-bezos>.

II. AMAZON'S BEGINNINGS

A. Founding of Amazon

In 1994, the then 30-year-old, Jeffrey Preston Bezos left his job at the renowned Wall Street hedge fund, D.E. Shaw, to jumpstart a new business – an online bookstore (p. 5). Bezos financed the startup himself with \$10,000 of his own money along with a \$245,000 investment from his parents (p. 5).⁵ Bezos initially called the company Cadabra Inc., and considered names like Bookmall.com and Relentless.com, before finally deciding that “the earth’s largest river could represent its biggest selection of books—Amazon.com.” (p. 5)

The startup was established in Bezos’ Seattle garage.⁶ Bezos and his then-wife, MacKenzie, started their business in the city of Seattle due to its status as a tech hub. The State of Washington’s small population meant that the company would not have to charge sales taxes like those charged by states with bigger populations, thereby making their goods cheaper to non-Washington residents.⁷

B. Dot.Com Era

In the late 1990’s, Amazon rapidly expanded during the dot-com bubble (p. 6).⁸ Taking advantage of low interest rates, venture capitalists and investment banks started investing in developing internet-based companies during the height of the dot-com bubble.⁹ Amazon grew from these investments, leading to Bezos becoming a millionaire and Time Magazine’s “Person of the Year” in 1999 (p. 6).

While Alan Greenspan, then chairman of the Federal Reserve in 1996, warned the public about the “irrational exuberance” during the dot-com bubble, an increasing number of

⁵ Lydia DePillis and Ivory Sherman, *Amazon’s Extraordinary Evolution*, CNN (Oct. 4, 2018), <https://www.cnn.com/interactive/2018/10/business/amazon-history-timeline/index.html>.

⁶ Avery Hartmans, *Jeff Bezos Originally Wanted to name Amazon ‘Cadabra,’ and 14 Other Little-known Facts About the Early Days of the E-commerce Giant*, BUSINESS INSIDER (July 2, 2021), <https://www.businessinsider.com/jeff-bezos-amazon-history-facts-2017-4#amazon-got-started-out-of-bezos-garage-in-the-early-days-bezos-held-meetings-at-barnes-and-noble-4>.

⁷ Lydia DePillis and Ivory Sherman, *supra* note 5; John Cook, *Meet Amazon.com’s first employee: Shel Kaphan*, GEEKWIRE (June 14, 2011), <https://www.geekwire.com/2011/meet-shel-kaphan-amazoncom-employee-1/2/> (explaining the factors for why Amazon chose to settle in Seattle); Eugene Kim, *Amazon Steps into Tax Collection With Service that could Help States Collect Billions in Lost Revenue*, CNBC (Nov. 15, 2017), <https://www.cnbc.com/2017/11/15/amazon-marketplace-tax-collection-comes-to-washington-in-2018.html> (“[In 2017], Washington will be the first state passed a law that goes into effect on Jan. 1, requiring all online marketplaces — like Amazon — to collect sales tax on behalf of its third-party sellers. This is new territory for Amazon, which to date has charged sales tax on products it sells directly to consumers while leaving it up to sellers on the platform to handle their own tax collection. Those transactions only require a tax if the merchant has a physical presence in the state of the buyer.”).

⁸ Matt Weinberger, *If You’re Too Young Remember the Insanity of the Dot-com Bubble, Check Out these Pictures*, BUSINESS INSIDER (Feb. 3, 2016), <https://www.businessinsider.com/history-of-the-dot-com-bubble-in-photos-2016-2#they-got-the-name-dot-com-companies-because-at-the-time-it-was-a-novelty-to-have-a-business-with-a-web-address-and-these-companies-only-existed-online-and-in-warehouses-3>. (During the dot-com bubble, companies created businesses with a web address and these companies only existed online.)

⁹ *Id.*

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startups founded dot-com companies.¹⁰ This investor hype that raised and decreased technology stocks and the overvaluation of the dot-com companies contributed to the dot-com crash.¹¹ As a result, Amazon went from a pre-bubble high of \$107 per share to \$7 per share.¹² Amazon survived the crash and avoided financial ruin by means of propitious offerings and a last minute infusion of capital from AOL totaling \$100 million in the summer of 2001 which covered Amazon's monetary obligations (p. 7). What followed was one of the most remarkable turnarounds in business history. Following the inability to match eBay's success with online sales, Bezos opened Amazon.com to third-party sellers and permitted them to list their goods along with Amazon's own products; letting consumers choose which vendor to purchase from (p. 8). Providing external sellers access to Amazon.com helped the company attract more customers and earn commissions on those dealings, which the company then used to lower its prices and fund a faster delivery (p. 8).

C. "Jeffisms"

Amazon's first company-wide motto was "Get Big Fast" (p. 6). Bezos created the phrase "Day 1"—Amazon would constantly be innovating, swiftly making decisions, and zealously adopting technology trends (p. 6). Bezos' mission was to maintain Amazon's status as a "Day 1" company (p. 248). Bezos feared that Amazon would become a "Day 2" company which he believed was "stasis, followed by irrelevance, followed by excruciating, painful decline, followed by death." (p. 406)

The "Day 1" ideology is demonstrated by Bezos' abhorrence of conventional wisdom in the day-to-day operations of Amazon (p. 10). PowerPoint Presentations that contained "bullet points and incomplete thoughts were banned inside the company" although it was a popular practice in Corporate America (p. 10). While most of Corporate America operated in bigger groups,¹³ Bezos implemented the "Two Pizza Team" rule (p. 10). Bezos stated that "[Amazon shall] create teams that are no larger than can be fed by two pizzas."¹⁴ This rule was designed to make meetings more effective by limiting the number of people participating and served to promote collaboration (p. 10).

Amazon employees were also trained to follow Bezos' fourteen leadership principles "when making decisions about ... new hires, promotions and even trivial changes to products."¹⁵ Some of the notable principles are customer obsession, a high bar for talent, and frugality (p. 10). These principles manifested themselves in the continuous weekly evaluation of employee performances, led by retail business managers who possessed data on inventory defects to

¹⁰ *Id.*

¹¹ See *id.*; Adam Hayes, *Dotcom Bubble*, INVESTOPEDIA (June 25, 2019) <https://www.investopedia.com/terms/d/dotcom-bubble.asp>. ("[The Dot-com Crash was caused by] the growth of the Internet created a buzz among investors, who were quick to pour money into startup companies. These companies were able to raise enough money to go public without a business plan, product, or track record of profits. These companies quickly ran through their cash, which caused them to go under.").

¹² Weinberger, *supra* note 8.

¹³ *Id.*

¹⁴ *Two-Pizza Teams*, AMAZON, <https://docs.aws.amazon.com/whitepapers/latest/introduction-devops-aws/two-pizza-teams.html> (last visited Nov. 1, 2021).

¹⁵ LEADERSHIP PRINCIPLES, <https://www.amazon.jobs/en/principles> (last visited Nov. 1, 2021).

ensure customer needs were met.¹⁶ The principle of frugality was especially evident during Amazon's early days when it utilized conference-room tables that were a "collection of blond-wound door desks shoved together side by side" in order to reduce costs and pass along additional savings to Amazon's customers in the form of discount prices.¹⁷

Another one of Bezos' notable principles is to "weave a rope" – to create connections amongst Amazon's various businesses (p. 126). Bezos once said that "[Amazon does] not have a single big advantage...so we have to weave a rope of many small advantages."¹⁸ For instance, in the Fall of 2014, Amazon Fire tablet owners and Prime Members were given a free digital subscription to the Washington Post (p. 126). Between 2014 and 2015, visitors to the Washington Post's App increased by 56% (p. 126). In another instance of Amazon successfully "weaving a rope," in April 2019, Amazon changed Prime delivery options from two day to one day shipping and waived a subscription fee for grocery deliveries for Prime Members (p. 243). This proved to be an effective decision one year later, when the COVID-19 pandemic led millions of consumers to use online grocery delivery services (p. 243). Today, Prime Members, aside from exclusive shipping options, have privileges to memberships such as access to Amazon Music and Amazon Prime Video streaming.¹⁹

Since Amazon's inception, the company abided by what it called a "flywheel principle" (p. 8). Bezos and his team developed their "cycle," which they believed fueled their business.²⁰ Discounted prices would attract more customers which meant that more goods were purchased, and in turn, those sales attracted third-party sellers to the Amazon website.²¹ This enabled Amazon to lower prices even further.²² The team believed that investing in any part of the flywheel would accelerate the flywheel's loop thereby accelerating the growth of the business (p. 245).²³

Bezos believed that Amazon's corporate culture could not be rigidly written, stating "[company culture] is created slowly... by the people and by events, by... past success and failure." (p. 115)²⁴ The unconventional and decentralized culture that Bezos created at Amazon demonstrates that the company will not compromise speed and accuracy, and it aimed to achieve both (p. 10). The author suggests that these "fourteen sacrosanct leadership principles,"

¹⁶ *Id.*

¹⁷ Nelson DeMestre, *Book Review the Everything Store: Jeff Bezos and the Age of Amazon*, NAOS ASSET MANAGEMENT (Mar. 25, 2021), <https://www.naos.com.au/naos-blog/book-review-the-everything-store-jeff-bezos-and-the-age-of-amazon>.

¹⁸ See BRAD STONE, *THE EVERYTHING STORE: JEFF BEZOS AND THE AGE OF AMAZON* (2013) (ebook).

¹⁹ HELP & CUSTOMER SERVICE, <https://www.amazon.com/gp/help/customer/display.html?nodeId=G6LDPN7YJHYKH2J6> (last visited Nov. 20, 2021).

²⁰ AMAZON FBA, <https://managebystats.com/how-to-sell-on-amazon> (last visited Nov. 30, 2021).

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ Nimish Sawant, *In Brad Stone's Book Amazon Unbound, Critical Perspectives on the Transformation of Amazon and Jeff Bezos*, FIRSTPOST (July 16, 2021), <https://www.firstpost.com/tech/news-analysis/in-brad-stones-book-amazon-unbound-critical-perspectives-on-the-transformation-of-amazon-and-jeff-bezos-9807751.html> ("But not everything Bezos thought about was a billion-dollar idea. The Amazon Fire Phone, for which Bezos himself gave a keynote address to such an extent that Amazon had to underwrite \$170 million worth of phones already manufactured.").

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which were equally applied to individual employees and management alike, and Amazon's interlocking of business units, contributed to the early success of Bezos's empire (p. 406).²⁵

III. AMAZON'S UNPRECEDENTED GROWTH

The foundation of Amazon's success has been the company's pervasive digitization, dedication to investment in unique inventions, and execution of profitable acquisitions.²⁶ Bezos once said, "Amazon is what it is because of invention. We do crazy things together and then make them normal. We pioneered customer reviews... Prime's insanely-fast shipping, Just Walk Out shopping, ... Kindle, Alexa, Marketplace, infrastructure cloud computing."²⁷

Amazon's growth became even more unprecedented at the height of the COVID-19 pandemic. Amazon has been deemed as the "clear winner" from the pandemic as its share price rose more than a third within a month, its patrons spent approximately \$11,000 per second on Amazon products, and Amazon's owner, Jeff Bezos, reinforced his place as one of world's richest people with a \$138 billion fortune.²⁸

A. Notable Amazon Technology

1. Amazon Web Services ("AWS")

The roots for the idea of AWS dates to the early 2000s, when the Amazon was struggling with scaling operations. Amazon responded by building a dependable internal system to handle the unprecedented growth it was facing.²⁹ AWS was first to market with a modern cloud infrastructure service when it was launched in 2006.³⁰ AWS helped Amazon minimize dependencies on other companies – a central feature of Bezos' vision for the company (p. 97). AWS permits third parties, such as governmental organizations, educational institutions, not-for-profits and private associations, to build websites using Amazon's own system.³¹ AWS was first used by startups and university labs such as Uber, Airbnb, Dropbox and the SmugMug, a photo-sharing site (p. 96). AWS provides "servers, storage, networking, remote computing, email, mobile development, and security."³² While companies looking for large amounts of storage would need to physically build storage capacity and maintain it,

²⁵ DeMestre, *supra* note 17.

²⁶ Shelley E. Kohan, *Amazon's Net Profit Soars 84% With Sales Hitting \$386 Billion*, FORBES (Feb. 2, 2021), <https://www.forbes.com/sites/shelleykohan/2021/02/02/amazons-net-profit-soars-84-with-sales-hitting-386-billion/?sh=b7f2cd213349>.

²⁷ *Id.*

²⁸ Rupert Neate, *Amazon Reaps \$11,000-a-Second Coronavirus Lockdown Bonanza*, THE GUARDIAN (Apr. 15, 2020), <https://www.theguardian.com/technology/2020/apr/15/amazon-lockdown-bonanza-jeff-bezos-fortune-109bn-coronavirus>.

²⁹ Jon Swartz, *How Amazon Created AWS and Changed Technology Forever*, MARKET WATCH (Dec. 7, 2019), <https://www.marketwatch.com/story/how-amazon-created-aws-and-changed-technology-forever-2019-12-03>.

³⁰ *Id.*

³¹ Teresa Carlson, *Welcome to the AWS Innovating in the Public Sector Blog*, AMAZON (Dec. 11, 2015), <https://aws.amazon.com/blogs/publicsector/welcome/>.

³² Vanessa Page, *What Is Amazon Web Services and Why Is It So Successful?*, INVESTOPEDIA (Aug. 21, 2021), <https://www.investopedia.com/articles/investing/011316/what-amazon-web-services-and-why-it-so-successful.asp>.

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Amazon's cloud provides the same functionality at a fraction of the cost.³³ Born out of a need to expand Amazon beyond books, AWS has significantly contributed to Amazon's growth – accounting for roughly 13% of Amazon's total revenue as of Q2 2021.³⁴ In 2020, AWS generated \$45.4 billion in sales (p. 97).

2. Kindle

In 2007, Amazon created a product that would continue to fuel its growth strategy – the Kindle (p.22). Bezos was astounded by Apple's quick rise in music sales with the iPod and iTunes store. In response to Apple's success, he started a secret project to create Amazon's own digital book reader (p.9). When the Kindle initially sold in 2007, Amazon had around 90,000 titles contained in its eBook collection. As of 2021, the Kindle Store contains 9 million different titles.³⁵ After years of struggling with publishers, rigid competition with Barnes & Noble and leading competitors, and innumerable pricing schemes, Amazon is now the overwhelming leader of the eBook space.³⁶ Amazon accounts for more than 80 percent of eBook sales in the United States.³⁷ Amazon has recently invested in combining its Audible eBooks with the Kindle service.³⁸ In Amazon's "weave the rope" fashion, consumers who purchased eBooks through Amazon's Kindle service or audiobooks from Audible can listen to them through Amazon's Alexa powered device.³⁹

3. Alexa

The idea for Alexa came from Bezos when he was searching for a means to take advantage of Amazon's growth in the cloud.⁴⁰ In 2014, Amazon released the first Echo, a voice activated speaker running the virtual assistant and Alexa. (p. 12) Alexa has become the public face of Amazon's AI efforts.⁴¹ Bezos suggested the device to be called "Alexa" as an homage to the ancient library of Alexandria, regarded as the capital of knowledge. (p. 32). The product was successful and over the next five years Amazon sold more than 100 million devices, which began a new age of voice connected computing.⁴² Amazon was moving from its customers doorsteps into their living rooms, with access to their broad range of requests and questions and potentially the most intimate conversations. (p. 13) Amazon's investment in Alexa proved to be worthwhile and contributed to Amazon's growth. Alexa is the leading device in the virtual

³³ *Id.*

³⁴ *Id.*

³⁵ David Pierce, *The Kindle Changed the Book Business Can It Change Books?*, WIRED (Dec. 20, 2017), <https://www.wired.com/story/can-amazon-change-books/>.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ Lance Whitney, *How to Listen to Audiobooks on an Amazon Echo Device*, PCMag (May 6, 2021), <https://www.pcmag.com/how-to/how-to-listen-to-audiobooks-on-an-amazon-echo-device>.

⁴⁰ Dorey Scheimer & Meghna Chakrabarti, *The Prime Effect: Alexa, AI And What Makes Jeff Bezos Tick*, WBUR (May 13, 2021), <https://www.wbur.org/onpoint/2021/05/13/the-prime-effect-who-is-jeff-bezos>.

⁴¹ Liat Clark, *The Everywhere Store: Amazon's AI-Powered Master Plan to be the World's Biggest Company*, WIRED (Apr. 8, 2017), <https://www.wired.co.uk/article/amazon-alexa-jeff-bezos-worlds-biggest-company>.

⁴² *Id.*

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assistant marketplace accounting for the largest portion of the global smart speaker market share at 31.7%.⁴³

B. Amazon's Services

1. Fulfillment by Amazon and Amazon Marketplace

An excellent demonstration of the flywheel principle was the development of Fulfillment by Amazon ("FBA") services and Amazon Marketplace. These services made it more convenient for consumers to purchase products on Amazon and made it easier for Amazon vendors to sell on the website— thus spinning the flywheel more rapidly.⁴⁴

Launched in 2005, FBA's purpose was to permit sellers to send their goods to Amazon warehouses. This helped Amazon gain control of third-party vendors in its Marketplace and enabled the company to house and ship non-Amazon products to customers (p. 165). Bezos also created an Amazon Marketplace which permitted third-party sellers to register on the company's site and sell expended or brand-new items (p. 168). In the Amazon Marketplace, merchants were able to conveniently post their items on Amazon's website, set prices, and offer promos with some assistance from Amazon employees (p. 169).

Amazon Marketplace became a successful in large part because it exploited a vulnerability that existed in competitive services. eBay sequestered its third-party seller community by implementing surcharges and giving advantageous deals to bigger merchants (p. 169). The rise of third-party sellers in Amazon's Marketplace increased the number of products the company pushed in its warehouses which also boosted revenue considering fixed cost (p. 165). The Amazon Marketplace considered "sellers to be their customers and provided them with programs such as Amazon exclusives, to highlight unique products and Amazon lending, to help finance sellers' growth, using the inventory they stored with FBA as collateral." (p. 170) As highlighted by Stone, "Amazon's retail business [became] a largely self-service technology platform that could generate cash with minimum human intervention." (p. 165) To date, the Amazon Marketplace and FBA services represent 60% of Amazon's overall retail sales.⁴⁵ While this venture was promoted as a win for both third-party sellers and Amazon, this business strategy proved to be calculated as it helped the company gain more profit from sellers' earnings through imposing fees; further solidifying Amazon's dominance over the sellers and the e-commerce market.⁴⁶

⁴³ Grace Kay & Avery Hartmans, *Amazon Trained Alexa in Secret by Hiring Unsuspecting People to Ask Questions in a room filled with hidden prototypes*, BUSINESS INSIDER (May 11, 2021), <https://www.businessinsider.com/how-amazon-created-alexa-trained-echo-while-keeping-secret-2021-5>.

⁴⁴ *Id.*

⁴⁵ Annie Palmer, *Amazon Says Sellers Are Doing Great on its Marketplace, as Regulators Turn Up the Heat*, CNBC (Oct. 19, 2021), <https://www.cnbc.com/2021/10/19/amazon-touts-small-business-success-amid-third-party-seller-scrutiny-.html>.

⁴⁶ Sara Morrison, *Amazon's Strategy to Squeeze Marketplace Sellers and Maximize its Own Profits is Evolving*, VOX (Dec 1, 2021), <https://www.vox.com/recode/22810795/amazon-marketplace-prime-report>.

2. Amazon Shipping

Another business in which Amazon achieved its success was by delivering profitable items to customers through Amazon Shipping which was created in 2005 (p. 212). In 2014, Amazon would go on to introduce Prime Now— a One-Hour Delivery special only available to Prime Members.⁴⁷ Since shipping companies like the UPS and FedEx were unable to keep up with Amazon Prime members' order volume during the holiday seasons, Amazon was inspired to utilize its own in-house logistics network (p. 226-227). Simply put – Amazon performed the delivery of its own orders (p. 228). According to Bank of America Global Research, since 2014, Amazon has devoted \$60 billion to construct fulfillment warehouses, lease aircrafts, and procure vans for its delivery service.⁴⁸ Amazon's Air Cargo has been an important part of the company's plan to take on its one- and two-day delivery goals (p. 233).⁴⁹

To support Amazon's own Logistics business, the company did not directly hire drivers (p. 228). Instead, it created relationships with independent delivery companies which hired nonunion drivers (p. 228). This tactic enabled Amazon to pay lower driver compensation as compared to UPS and evade the risk of drivers collectively bargaining for higher wages (p. 228). This arm's-length dealing with independent delivery companies insulates Amazon from certain market risks of the transportation business (p. 228).

Amazon's transportation division became valuable to its retail business since it allowed the company to distribute its goods into densely populated areas (p. 240). Amazon's logistics network benefitted from circumventing transportation rates imposed by the big carriers, thereby reducing internal externalities (p. 240). Because Amazon's efficient shipping practices attracted more customers to register for Amazon delivery services, it became more cost-effective to direct drivers into areas where such services were highly utilized (p. 241). Amazon shipping immensely impacted the dynamics of the carrier industry such that in 2019, UPS announced it would deliver on Sundays to keep up with Amazon (p. 242).

It should be noted that Amazon delivers half of its own packages globally and two thirds in the United States (p. 388). In the fall of 2017, Amazon's transportation division delivered approximately 20% of its own packages – a larger share than FedEx and UPS. (p. 240) A 2021 study by DePaul University found that Amazon Air currently completes an average of 140 flights daily to compete with FedEx and UPS in logistics.⁵⁰ Amazon's logistics network, including Amazon Air, may likely deliver goods for other retailers outside of the Amazon Marketplace.⁵¹

⁴⁷ *Amazon Introduces Prime Now: One-Hour Delivery on Tens of Thousands of Daily Essentials Exclusively for Prime Members*, AMAZON (Dec. 18, 2014), <https://press.aboutamazon.com/news-releases/news-release-details/amazon-introduces-prime-now-one-hour-delivery-tens-thousands>.

⁴⁸ Don Davis, *Amazon is the Fourth-largest US Delivery Service and Growing Fast*, DIGITAL COMMERCE 360 (May 26, 2020), <https://www.digitalcommerce360.com/2020/05/26/amazon-fourth-largest-us-delivery-service/>.

⁴⁹ *Id.*

⁵⁰ Annie Palmer, *Amazon Air Will Have a 'Growth Spurt' This Spring and Could Eventually Resemble an Airline, Study Says*, CNBC (Feb. 17, 2021), <https://www.cnbc.com/2021/02/17/amazon-air-fleet-growing-fast-could-resemble-airline-study.html>; Joseph P. Schwieterman *et al.*, *Strategic Moves By Amazon Air*, DE PAUL UNIVERSITY (Feb. 16, 2021), <https://las.depaul.edu/centers-and-institutes/chaddick-institute-for-metropolitan-development/research-and-publications/Documents/Amazon%20Air%20Primed%20and%20Positioned%20final.pdf>.

⁵¹ *Id.*

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3. Amazon Studios

After successes in its e-commerce, cloud services, and logistics businesses, Amazon gaze turned towards Hollywood. Amazon understood venturing into content production would mean that the company would have to create its own TV shows and films (p. 140). To compete with other streaming services, in 2010, Amazon introduced its streaming service to Amazon Prime as a free benefit (p. 138). As Amazon's competitors, such as Walmart and Target, began competing with Amazon's two-day shipping guarantee, the "free" streaming service became an integral part of Prime's bundle of perks (p. 158). Amazon knew that people tend to gravitate to free things which would justify Amazon Prime Members' annual membership fee, even though they infrequently ordered from Amazon (p. 140). This plan proved to be effective because in 2018, Prime video was consumed 5 billion times, and 7 billion times in 2019 (p. 158). Today, Amazon Prime Video's original media and its acquisition of MGM for \$8.45 billion has helped solidify its position with other streaming services "in the race to define the future for home entertainment"⁵² (p. 158). Amazon "hopes to leverage MGM's storied filmmaking history and wide-ranging catalog of 4,000 films and 17,000 TV shows to help bolster Amazon Studios, its film and TV division."⁵³ Currently, Amazon Studios has been critically acclaimed and has won Oscars.⁵⁴

4. Amazon Go

Amazon's most recent project has been in invading the grocery industry. In January 2018, Amazon opened its first archetype of Amazon Go's physical retail store on the ground floor of the company's Seattle headquarters.⁵⁵ Amazon Go uses artificial intelligence and computer vision to enable consumers to walk out of the establishment and be automatically charged instead of checking out with a live human cashier (p. 13). Amazon placed cameras in the ceiling to allow algorithms to spot when customers selected products and charged them for it (p. 57). The company also placed hidden scales inside the shelves and its sensors can determine which products are being removed (p. 57). Amazon Go currently operates in twenty-six locations found in New York, Chicago, and San Francisco.⁵⁶

While Bezos envisioned multiple Amazon Go stores in urban areas throughout the United States, seven years into the project, the twenty-six locations hardly produced the financial results he had in mind (p. 67). The stores faced political backlash because they eliminated cashier jobs, the second most popular job in the U.S. per U.S. Bureau of Labor Statistics. They also threatened to exclude low-income and older shoppers who did not have smartphones loaded with credit cards (p. 67-68). In response the cities of Philadelphia and New York, as well as the state of New Jersey, have passed legislation mandating Amazon Go stores

⁵² Annie Palmer, *Amazon to Buy MGM Studios for \$8.45 Billion*, CNBC (May 26, 2021), <https://www.cnbc.com/2021/05/26/amazon-to-buy-mgm-studios-for-8point45-billion.html>.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ Jason Del Ray, *Amazon is Opening a Supermarket With No Cashiers. Is Whole Foods Next?*, VOX (Feb. 25, 2020), <https://www.vox.com/recode/2020/2/25/21151289/new-amazon-go-grocery-store-supermarket-cashiers-whole-foods-seattle>.

⁵⁶ *Id.*

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to accept cash (p. 68).⁵⁷ While there is no federal law that requires vendors to accept cash, city and state lawmakers have intervened to prevent retailers from only accepting bank cards and mobile payments.⁵⁸ Amazon Go Grocery is closing some locations and rebranding others as Amazon Fresh grocery.⁵⁹

Despite these setbacks, Amazon Go has influenced other industries. Amazon began licensing the “Just Walk Out” system to several other retailers, such as convenience stores and airport kiosks (p. 69). Amazon stated that its “Just Walk Out” technology is scheduled to open in Whole Foods stores in D.C. and California in 2022.⁶⁰

C. Amazon’s Acquisitions and Bezos’ Other Businesses

1. Amazon’s Acquisition of Whole Foods

Generally, Bezos has placed prospective business opportunities into two buckets—“land rushes” where Amazon would have to move quickly to grab the ripe opportunity, or “passive approach” which meant that Amazon would take its time and patiently research until formidable competition materialized (p. 187). Bezos placed the home delivery of food under the latter approach (p. 187, 197).

In 2017, Amazon executed the largest acquisition in the company’s history – the acquisition of Whole Foods for \$13.7 billion (p. 210).⁶¹ Bezos felt that there was a window of opportunity in the grocery industry to learn a new business with a small footprint, as Whole Foods only has 450 stores to date.⁶² The acquisition price paid off because Whole Foods turned out to be the perfect target for Amazon. The two companies had substantial demographic overlap: 50% of Whole Foods shoppers were already Prime members, and 81% of Whole Foods customers also shopped on Amazon.⁶³ Amazon further relied on its flywheel principle, where Whole Foods would attract traffic to Amazon and vice versa.⁶⁴ As Amazon merged its Prime service with Whole Foods, Amazon gained consumer shopping data on the way people shop on and offline.⁶⁵ This meant that Amazon could better target ads than typical grocer would be

⁵⁷ Eugene Kim, *Amazon Exec Tells Employees that Go Stores Will Start Accepting Cash to Address ‘Discrimination’ Concerns*, CNBC (Apr. 10, 2019), <https://www.cnbc.com/2019/04/10/amazon-exec-tells-employees-that-go-stores-will-start-accepting-cash.html>.

⁵⁸ *Id.*

⁵⁹ *See id.*

⁶⁰ Annie Palmer, *Amazon Brings its Cashierless Tech to Two Whole Foods Stores*, CNBC (Sept. 8, 2021), <https://www.cnbc.com/2021/09/08/amazon-brings-its-cashierless-tech-to-two-whole-foods-stores.html>.

⁶¹ Tracy Leigh Hazzard, *Why Did Bezos Do It? An Inside Look at Whole Foods and Amazon*, INC (Sept. 18, 2018), <https://www.inc.com/tracy-leigh-hazzard/why-did-bezos-do-it-an-inside-look-at-whole-foods-amazon.html>.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *See discussion supra* Part II C.

⁶⁵ Lauren Hirsch, *A Year After Amazon Announced its Acquisition of Whole Foods, Here’s Where We Stand*, CNBC (June 15, 2018), <https://www.cnbc.com/2018/06/15/a-year-after-amazon-announced-whole-foods-deal-heres-where-we-stand.html>.

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able to.⁶⁶ Through the Whole Foods acquisition, Amazon has improved its efforts to deliver fresh food.⁶⁷

As a sign of Wall Street's confidence in Bezos' business decisions, ("Bezos effect") on the day of the Whole Foods acquisition, Amazon shares skyrocketed and added \$15.6 billion to its market cap, pushing it past \$475 billion (p. 210).

2. Bezos' Acquisition of the Washington Post

In an interesting turn of events, Bezos *personally* acquired the Washington Post in August of 2013 (p. 130). After the acquisition, between 2015 and 2018, advertisement revenues jumped from \$40 million to \$140 million and digital subscribers rose by more than 300 percent (p. 130). While Bezos has not explicitly explained his decision to purchase the Washington Post, Stone offers his theories as to Bezos' decision: "[Bezos] view[ed the acquisition] as an opportunity to experiment with a media company and to discover a new business model... [Bezos] can [also] use the Washington Post for political influence."⁶⁸

3. Blue Origin

Separate from terrestrial interest, Bezos created a spaceflight company as a passion project – Blue Origin. The name of the company refers Earth, humanity's birthplace. (p. 267) Bezos' passion for space travel is rooted from his childhood experiences when he visited his retired grandfather every summer, who had worked on space analogy and missile defense systems in the 1950's and 1960's. (p. 266). In Bezos' high school valedictorian speech, he ruminated on solving the problems of overpopulation and pollution by putting people into orbiting space stations (p. 266).

In 2000, Bezos founded Blue Origin in hopes of making space travel economical, frequent, and more accessible.⁶⁹ Bezos believed that decreasing the cost of space travel would offer people the ability to harvest resources in space and keep up with the current population growth rate. (p. 271) Bezos' commitment within Blue Origin was "seeding an enduring human presence in space... Blue Origin will pursue this long-term objective patiently, step by step" (p. 267). Blue Origin became the first company to send a rocket above the Kármán Line in 2015, and in October 2021, Blue Origin brought its first tourists, including Bezos, past the Kármán line. Despite these achievements, Blue Origin, twenty years into its inception, is still financially struggling even with Bezos spending \$1 billion yearly from his own pocket to fund the company (p. 282). It is important to note that Blue Origin has systematically trailed behind

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Jay Yarow, *Here's The Most Cynical Reason People Think Jeff Bezos Bought The Washington Post*, BUSINESS INSIDER (Aug. 6, 2013), <https://www.businessinsider.com/jeff-bezos-washington-post-for-political-influence-2013-8>.

⁶⁹ Kate Duffy, *Jeff Bezos is Now Devoting His Time to Building Multi-billion Dollar Rockets. Here's How his Space Company, Blue Origin, Hopes to Colonize the Solar System*, BUSINESS INSIDER (July 20, 2021), <https://www.businessinsider.com/jeff-bezos-blue-origin-stepping-down-amazon-ceo-space-2021-2#:~:text=Bezos%20founded%20Blue%20Origin%20in,accessible%2C%20through%20reusable%20launch%20systems>.

Elon Musk's Space X, which is surprising under the leadership of Bezos who otherwise succeeds in nearly everything he has created (p. 282).⁷⁰

D. COVID-19 Pandemic and Amazon's Growth

Through improvements in the internal operations of Amazon and some strategic acquisitions, Amazon was already well-positioned to compete in the modern economy prior to the year 2020. Amazon's growth continued at the height of the COVID-19 pandemic, even though Amazon made some decisions that were contractionary in nature but assisted the global effort to address the hardships caused by the pandemic (p. 389). For instance, Amazon withdrew promotions for Mother's Day, Father's Day, and even cancelled its Prime Day (p. 389). Amazon also solely accepted "household staples, medical supplies and other high demand-products" from independent sellers who participated in Amazon's third-party shipment program (p. 389). Bezos ordered that Amazon must create its own COVID-19 tests because the company was unable to procure the kits due to the shortage of COVID-19 kits in the United States (p. 390). Furthermore, Amazon utilized its 3D printers to produce plastic face shields (p. 388).

Amazon's substantial investments in COVID-19 related measures, costing around \$4 billion⁷¹, resulted in the company's most profitable year thus far (p. 401). At the end of 2020, Amazon's annual revenue surged to \$380 billion (p. 401). The pandemic made it more attractive and safer to complete purchases from home; leading to online orders skyrocketing such that Amazon's trailing services, Amazon Fresh and Whole Foods grocery delivery, experienced exponential growth (p. 391). Consumers who followed shelter in place orders interacted frequently with Alexa and consumed media produced by Amazon Studios (p. 401). At the peak of the pandemic, to keep up with consumer demand, Bezos employed one million full and part-time workers (p. 401). Bezos continued to keep Amazon as a "Day 1" company in spite of the pandemic by persistently introducing novel business opportunities for Amazon's portfolio such as: "Amazon pharmacy, Halo smart band and Amazon Care, which is a smartphone app-based service that provides virtual consultations with physicians." (p. 401, 404-405) It is important to note that by the end of the first COVID stricken year, 2020, Bezos's wealth increased 70% and he is now worth more than \$190 billion (p. 401).

While the company took measures to ensure employee safety such as purchasing thermal cameras to remotely scan employees for COVID-19 symptoms, raising entry level wages and temporarily boosting overtime pay during COVID, Amazon continued to place employees at risk at the height of the pandemic (p. 388, 391). Absent local mandate, Amazon's Seattle Corporate Headquarters cancelled all in-person meetings and urged its white-collar employees to use Amazon's in-house video conferencing software, while also considering its blue-collar warehouse employees essential to business which continued to put their health at

⁷⁰ Daniel Oberhaus, *How Did Jeff Bezos's Blue Origin Fail to Dominate the Billionaire Space Race?*, THE GUARDIAN (Oct. 16, 2021), <https://www.theguardian.com/science/2021/oct/16/jeff-bezos-blue-origin-billionaire-space-race-sexism-safety-concerns>. (explaining Space X's accomplishments such as carrying both Nasa astronauts and private citizens to the International Space Station and launching prototypes of the largest and most powerful rocket ever made, a destined to carry humans to the moon.).

⁷¹ Ari Levy, *Amazon Predicts \$4 Billion in Covid-Related Costs Next Quarter, with Unpredictable Holiday Sales*, CNBC (Oct. 29, 2020), <https://www.cnbc.com/2020/10/29/amazon-forecast-reflects-4-billion-in-covid-related-costs-.html>.

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risk (p.386). One of Amazon's blue-collar employees, Christopher Smalls, highlighted that Amazon was not compliant with mandated COVID-19 guidelines and led a walk out in March 2020 (p. 394).⁷² That day Smalls was fired (p. 397). Amazon reasoned that an internal policy had been violated, such as social distancing or the guidelines against talking to the media without the company's authorization (p.398). Amazon insisted that it was not retaliating against Smalls for speaking out, but that was hard to believe under the circumstances (p. 398).

IV. CONTROVERSIES SURROUNDING AMAZON

A. Antitrust Issues Faced by Amazon

Due to Amazon's domination in different industries, the company has inspired a renewed interest in examining antitrust law in the United States. A 2017 Yale Law Journal article entitled *Amazon's Antitrust Paradox*, written by then Yale Law student Lina Khan who is now the Chairperson of the Federal Trade Commission, played a key role in such an interest.⁷³ The 93-page article confronted the contemporary history of the lenient antitrust enforcement in the United States and encouraged regulatory agencies to look at Amazon under greater scrutiny (p. 364). Kahn believed the current antitrust laws have failed "to capture the architecture of market power in the twenty-first century marketplace." (p. 364) Khan's article highlighted that, unlike previous monopolies which created unreasonably high prices for consumers, the main injury that Amazon has inflicted to the market is the relentless discounting of prices to "bleed out competitors and amass market share."⁷⁴ In an interview with Stone, Khan has stated:

Amazon can dictate terms to everyone dependent on its platform and increasingly enjoys the power to pick winners and losers throughout the economy. When information advantages and bargaining power are so skewed towards a single player that unilaterally sets all the rules, it's no longer a 'market' in any meaningful sense. (p. 352)

In 2019, the U.S. House of Representatives Judiciary Subcommittee on Antitrust ("Subcommittee") began a 16-month investigation regarding the dominance and anti-competitive behavior of world's largest tech companies: Amazon, Apple, Facebook, and Google.⁷⁵ The Subcommittee requested internal documents from Amazon pertaining to acquisitions, product pricing, and Amazon Marketplace rules (p. 367). The Subcommittee published some of the documents, which revealed Amazon executives "strategizing back in 2009 to run the company's diaper business at a loss to combat the company that operated

⁷² Steven Greenhouse, *Amazon Fired Him – Now He's Trying to Unionize 5,000 Workers in New York*, THE GUARDIAN (June 4, 2021), <https://www.theguardian.com/technology/2021/jun/04/amazon-workers-staten-island-christian-smalls>.

⁷³ See Lina Khan, *Amazon's Antitrust Paradox*, 126 YALE L.J. 564 (2017); Moorari Shah, *Lina Khan Sworn in as New FTC Chair*, THE NATIONAL LAW REVIEW (June 28, 2021), <https://www.natlawreview.com/article/lina-khan-sworn-new-ftc-chair> ("On June 15 [2021], the Senate swore in President Biden nominee Lina Khan as Chair of the FTC following confirmation by vote of 69-28. Her current term on the Commission will expire on September 25, 2024.").

⁷⁴ Charles Kaiser, *Amazon Unbound Review: How Jeff Bezos Engulfed and Devoured Us All*, THE GUARDIAN (June 20, 2021), <https://www.theguardian.com/books/2021/jun/06/amazon-unbound-review-jeff-bezos>.

⁷⁵ Shirin Ghaffary & Jason Del Rey, *The Big Tech Antitrust Report Has One Big Conclusion: Amazon, Apple, Facebook, and Google are Anti-Competitive*, VOX (Oct. 20, 2020), <https://www.vox.com/recode/2020/10/6/21505027/congress-big-tech-antitrust-report-facebook-google-amazon-apple-mark-zuckerberg-jeff-bezos-tim-cook>.

Diapers.com and to buy the Internet doorbell company *Ring* in 2018, not for its technology but to gain a dominant position in the market.” (p. 367)⁷⁶

Policymakers attempted to illustrate that Amazon’s most anticompetitive behavior is how it operates its third-party marketplace (p. 370). For instance, David Barnett, founder of a company called PopSockets which are decorated grids for smartphones, testified that Amazon allowed knockoff PopSockets to proliferate Amazon’s website if he did not agree to sell his products at a certain price (p. 368). Barnett stated that when he tried to exit a wholesale relationship with Amazon and launch himself as an independent seller on the Amazon Marketplace, Amazon did not permit him to do so and essentially removed PopSockets from Amazon’s websites (p. 368). The October 2020 U.S. House of Representatives Judiciary Report (“October 2020 Report”), which discussed the state of competition in the digital economy, found that Amazon enjoyed a dominant position in online retail, engaged in anticompetitive acquisitions, and coerced small sellers into anticompetitive pricing arrangements using threats like those alleged by Barnett (p. 351). The Report also found that Amazon imposed increasing fees to sellers and used data from third party sellers to bolster its own retail business, as discussed below.⁷⁷

1. Anticompetitive Behavior: Data from Seller and Amazon’s Private Label Products

Amazon’s critics and some of its sellers accuse the company of exploiting other significant advantages within the Amazon Marketplace. The most significant accusation was that Amazon looked at sales data in the company’s third-party marketplace to identify new consumer trends, and determine what products were selling well enough to be copied by Amazon (p. 202). One of Amazon’s databases, Heartbeat, collected consumer reviews it received anywhere on its website. This enabled employees to look for patterns that might indicate how they could improve well-established products (p. 201). Another valuable tool was Amazon’s Vine program, in which influential product reviewers received free samples in return for the written appraisals and were thus more likely to produce more exuberant critiques (p. 201). A 2020 Wall Street Journal article confirmed Amazon’s use of internal data from third-party merchants to launch Amazon branded products despite Amazon’s vehement denial of such practice. (p. 368)⁷⁸

Another tactic employed by Amazon was search seeding (p. 201). This tactic permits brand managers to highlight initial relevancy scores for novel products as compared to the score of established products (p. 202). Search seeding would boost the rankings of specific product such as Amazon Basics to be pinned at the top of the search results rather than appear on the unseen last page with other new brands (p. 202). One brand manager, JT Meng, recounted that

⁷⁶ Lauren Feiner, *We Read Hundreds of Pages of Emails that Congress Collected from the Biggest Tech Companies in the World — Here are the Most Revealing Things We Found*, CNBC (Aug. 6, 2020), <https://www.cnbc.com/2020/08/06/amazon-apple-google-and-amazon-emails-most-revealing-antitrust-finds.html>. (“If you are pricing below an appropriate measure of your cost for the purpose of injuring a competitor and you have the ability to recoup those losses once your competitor is out of business or retreats from its discounting practices, that is potentially an antitrust violation.”).

⁷⁷ See Ghaffary & Del Rey, *supra* note 75.

⁷⁸ See Annie Palmer, *Amazon Uses Data from Third-Party Sellers to Develop its Own Products*, *WSJ Investigation Finds*, CNBC (Apr. 23, 2020), <https://www.cnbc.com/2020/04/23/wsj-amazon-uses-data-from-third-party-sellers-to-develop-its-own-products.html>.

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he had to retreat from search seating for Amazon Essential baby wipes since unit sales were exceeding 20% of the categories overall volume, which risked damaging the company's relationship with Procter and Gamble and Kimberly-Clark. (p. 203)

There are also products called "Amazon's Choice." Its meaning was vague, and Amazon did not expound on what the badge really meant, however it seemed to fulfill the role of an informed salesperson (p. 257). Consumers were attracted to the products that were given the badge (p. 257). The badge was also assigned to Amazon's private label products, which provided Amazon another advantage over other competitors in search results. A 2019 Wall Street Journal about Amazon Choice found that the badge was provided to 540 Amazon Basics items more than other brands. (p. 258) This was evidence that Amazon search results had "evolved from a straightforward algorithmically ordered taxonomy of products into an over merchandise display of sponsored ads, Amazon choice endorsements, editorial recommendations from third-party websites and Amazon's own private brands" (p.2 59).

Even though Bezos has testified to the U.S. Congress, in a July 2020 hearing, that when Amazon develops and vends its own products, the company does not use information it collects from the marketplace's third-party sellers, its practices demonstrate the contrary.⁷⁹ Bezos vaguely asserted that while Amazon has an internal policy regarding third-party seller data, he could not "guarantee that the [policy on private sales data of sellers] has never been violated." (p. 371) Stone highlights that Bezos was almost certainly aware the policy was poorly implemented and had been regularly violated in order for Amazon employees to reach aggressive internal benchmarks of Amazon, Inc. (p. 370).

2. Counterfeit Goods in the Amazon Marketplace

Another area of Amazon's Marketplace that attracted government scrutiny is the availability of counterfeit goods within the marketplace. Bezos' goals for the Amazon Marketplace were to: "remove all friction to selling on Amazon; eliminate the barriers to cross-border trade; address any problems with innovative technology and automated systems, not costly manpower." (p. 376) On one hand, this resulted in an explosion of discounted items which propelled the notable growth of Amazon's e-commerce business (p. 376). On the other, the Amazon Market led to the "disintermediating forces of globalization that crushed Western sellers and created a dynamic that made it exceedingly difficult to protect intellectual property and prevent fraud" (p. 376).

The presence of counterfeit, hazardous, and perished items in Amazon's Marketplace has stained Amazon's reputation and the trust it had fostered its customers (p. 181). In 2016, the sandal maker brand, Birkenstock, had removed its goods from Amazon and banned all its authorized third-party resellers from selling its products on Amazon's site (p.180). Nike and IKEA followed suit, inciting speculation that Amazon's inability to halt counterfeits was detrimental to its relationship with notable brands (p. 180). In 2017, Amazon responded to these concerns by introducing the Brand Registry initiative, which permitted brands entitlement to their logos and designs and to report potential violations to Amazon (p. 181). The Brand Registry led to new complaints about how long it took for Amazon to address claims. The

⁷⁹ See *id.*

initiative did not solve the problem of abusive sellers who, when their accounts closed, simply signed up for new ones.⁸⁰ Most of the sellers that abused this system were based out of China.⁸¹

The issue with the abusive Chinese sellers proved challenging for Amazon to address because 49% of the top 10,000 largest sellers on Amazon were based in China (p. 183). In 2019, Amazon spent \$500 million on fraud prevention, impeding bad actors from creating 2.5 million accounts (p. 183). The company also introduced a new anti-counterfeit tool, “Project Zero”, which allowed approved brands to exterminate suspected infringers automatically without going through an approval process (p. 183). These efforts proved to be ineffective because, in April 2020, the office of the U.S. Trade Representative listed Amazon sites in five countries as “notorious market” with dangerous levels of counterfeit and pirated products (p. 183). Amazon “[deemed the] report a purely political act and part of a vendetta by the administration of Donald Trump.” (p. 183)

B. Recommendations

The October 2020 Report recommended that Amazon be broken up like the railroad and telecommunication trusts of the past to extinguish the conflicts of interest between their disparate lines of business (p. 351, 377). In the alternative, the Report provided recommendations to address the risks presented by Amazon’s market without restoring to the type of antitrust suits that could result in the breakup of Amazon (p. 378). The Report recommended that Congress should place heightened approval requirements for big tech companies for mergers, such as requiring tech companies with dominant market positions to disclose smaller acquisitions and demonstrate how the mergers are in furtherance of the public interest (p. 378). It was also recommended that governmental authorities should examine Amazon’s contracts with sellers and prevent Amazon from imposing penalties on such sellers who have listed a cheaper price elsewhere (p. 378.) Congress may also restore the Amazon sellers’ ability to pursue class action litigation against Amazon and impede the current provisions that places the sellers through lengthy and secretive arbitration process (p. 379). For now, the Report’s recommendations are only high-level guidance to Congress for future legislation; they would not lead to immediate action against these Amazon.⁸²

Stone suggests that Congress may reform the notorious Section 230 of the Communications Decency Act (“Section 230”) which states in pertinent part “no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”⁸³ Section 230 currently holds that internet providers like Amazon are not liable for the legal infractions of their users (p. 379). This in turn could force Amazon to be accountable for fraudulent or unsafe products sold and its third-party sellers (p. 379). Regulators could also compel Amazon to verify sellers with a tax ID number or require them to put down a security deposit, which will be forfeited at the

⁸⁰ Jayce Broda, *10 Well-Known Amazon Black Hat Tactics: How to Protect Your Business*, SOCIALNOMICS (Mar. 13, 2021), <https://socialnomics.net/2021/03/13/10-well-known-amazon-black-hat-tactics-how-to-protect-your-business/>.

⁸¹ Sean Hollister, *Amazon Says It’s Permanently Banned 600 Chinese Brands for Review Fraud*, THE VERGE (Sept. 17, 2021), <https://www.theverge.com/2021/9/17/22680269/amazon-ban-chinese-brands-review-abuse-fraud-policy>.

⁸² *Id.*

⁸³ 47 U.S. CODE § 230.

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onsite of fraud (p. 379). The author notes that adding significant friction to the process of becoming an Amazon seller would restore balance in the competitive playing field of the Marketplace that currently favors Chinese sellers (p. 379).

Stone highlights that the Report found it difficult to demonstrate that Amazon possessed the type of monopoly power that might render the company's conduct contrary to U.S. Antitrust law (p. 378). Unlike big tech companies such as Google, Facebook and Microsoft, Amazon does not possess a clear market share advantage (p. 378). The Report also struggled to establish that Amazon was utilizing AWS and advertising profits to fund its retail operation, to destabilize rivals on prices and to subsidize entry into unrelated markets (p. 379). Stone also states that Amazon's ambiguous future in relation to U.S. antitrust enforcement depends on many factors such as the change in party control of Congress, the relative necessity of tackling the behavior of other technology companies such as Google and Facebook and the nation's perception of Amazon and Bezos. (p. 380)

V. ARE WE BETTER OFF WITH OR WITHOUT AMAZON?

In Amazon's search to increase profits and minimize cost, Amazon implemented policies that were contrary to basic human decency on various occasions.⁸⁴ Stone highlights how Amazon was not in compliance with mandated COVID-19 guidelines and refused to offer better working conditions in Amazon's warehouses despite complaints from the employees.⁸⁵ Amazon only installed better equipment in warehouses after news of workers collapsing and being taken to hospitals were publicized.⁸⁶ Stone thoroughly examines the antitrust allegations against Amazon regarding its use of third-party sellers' data and ultimately using the data to eliminate competition and create similar products under Amazon Basics.⁸⁷

Despite the criticism of Amazon, Stone discusses the innovation that Amazon has contributed to our society.⁸⁸ Amazon has a full suite of electronic devices, including a digital assistant that thousands of consumers rely on to perform nominal tasks (Alexa), an electronic reader (Kindle) and an at home security system (Ring). Amazon's AWS business also hosts a third of the world's cloud-based data.⁸⁹ While we, the consumers, are better off with Amazon due to the convenience it has offered, such convenience comes with tradeoffs – potential elimination of free market competition, privacy invasion, and unfair labor practices. Therefore, despite Amazon's remarkable growth and positive contributions to society, the company should still be heavily scrutinized by governmental regulators.

VI. CONCLUSION

Over the course of two and a half decades, Bezos shaped his concept of a novel online bookstore by using technology to mold Amazon into the global empire we know today (p.405).

⁸⁴ See Sawant, *supra* note 24.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ Lydia DePillis, *It's Amazon's World. We Just Live In It.*, CNN (Oct. 4, 2018), <https://www.cnn.com/2018/10/03/tech/amazon-effect-us-economy/index.html>.

⁸⁹ *Id.*

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Amazon offers almost all consumer goods and delivers them quickly, controls internet data centers, sells shows to our homes, and offers voice-activated speakers (p. 5). Amazon may even one day offer travel to the moon (p. 5). Although Bezos once warned employees that he predicts “one day ... Amazon will go bankrupt,” Amazon is now worth more than one and half trillion dollars (p. 406). As of August 2021, Jeff Bezos is the richest person in the world.⁹⁰ Even though Bezos has recently stepped down as Amazon’s CEO, he has left an indelible mark in the e-commerce space.⁹¹ Amazon is not just an inspirational business story of our time, but it is also a “referendum on society and on the responsibilities that large companies have toward their employees and the planet.” (p. 2) While it is still challenging to answer “[Whether] the world [would be] better off with Amazon in it?,” the Congressional findings make a compelling case: that big tech companies like Amazon have a monopoly on our political dialogue, our financial activities, personal data, and on the ability of smaller companies to grow (p. 377, 407). The failure to regulate big tech companies like Amazon would be a dangerous abandonment of government responsibility and would serve to be perilous to the global marketplace.

⁹⁰ Ismael Brooks, *Amazon Founder Jeff Bezos Regains His Title of The Richest Man in the World*, CITY TELEGRAPH (Aug. 19, 2021), <https://citytelegraph.com/business/5320/amazon-founder-jeff-bezos-regain-his-title-of-the-richest-man-in-the-world/#:~:text=Amazon%20founder%20Jeff%20Bezos%20regain%20his%20title%20of,Real-Time%20rating%2C%20which%20is%20updated%20in%20real%20time>.

⁹¹ *Id.*; see also Kenrick Cai, *Jeff Bezos Is Once Again the Richest Person In The World, Even As Amazon’s Stock Skids*, FORBES (Aug. 18, 2021), <https://www.forbes.com/sites/kenrickcai/2021/08/18/jeff-bezos-again-richest-person-in-world/?sh=39733a2057cb>.