**Does Amazon Have Unfair Competitive Advantage?**

Amazon is the largest company in the world in the consumer services market, and the third largest company in any market. It is only topped by Apple and SaudiAramco, a Saudi Arabian energy company. However, Amazon differs from these companies in one key measure. In fact it differs from any other company that has ever existed. Amazon’s presence has such a large breadth that it doesn’t make sense to talk about Amazon’s market. Amazon competes in numerous markets and is continually widening its borders. This sort of widespread network scale and power has recently become a cause for concern for business ethicists and even the federal government. Many are concerned that Amazon has acquired an unfair competitive advantage.

In terms of ethics, unfair advantage is defined as enjoying “a benefit or position that comes at anther’s expense – without a good reason”. It is “the opportunity to wield an unfair upper hand” (The Business Ethics Field Guide). However, in the legal business world, unfair advantage is defined differently. The FTC (Federal Trade Commission) aims to “protect consumers and competition by preventing anticompetitive, deceptive, and unfair business practices through law enforcement, advocacy, and education without unduly burdening legitimate business activity”. The FTC has anticompetitive practice laws that aim to combat any ethical unfair advantage issues, stating “It is unlawful for a company to monopolize or attempt to monopolize trade, meaning a firm with market power cannot act to maintain or acquire a dominant position by excluding competitors or preventing new entry” (ftc.gov). Historically this has worked, but with Amazon’s recent rise to power, some feel that this law’s definition of anticompetitive practice is no longer sufficient.

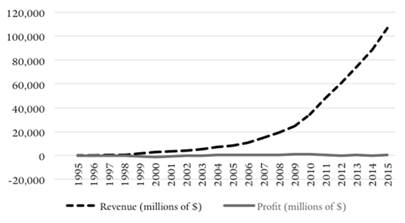
Amazon hasn’t violated any anticompetition laws. In fact, generally the key indicator of anticompetitive practice is an increase in prices, because a company is able to do so without losing the business to other firms. But Amazon has actually reduced prices for consumers, and so antitrust laws view this as evidence of good competition. However, this may not be the case.

There have been instances where Amazon has demonstrated the risks of its dominant market power. In 2014, Amazon had an eventful negotiation period with French book publisher Hachette. Hachette used Amazon’s marketplace to sell books, and the publisher wanted control of its own pricing in the marketplace. Amazon wanted to lower the price of Hachette books, and used its leverage to put pressure on Hachette to comply. Amazon pulled many of Hachette’s books from its marketplace, it removed available customer discounts on their products, and it delayed shipping for many of their products. Amazon faced public criticism for these moves (*The Guardian*, “Amazon and Publisher Hachette End Dispute Over Online Book Sales”).

Although this seems unethical, there are some strong arguments to say that this is justified. There is debate as to whether these are just neutralizations or if Amazon’s actions are actually justified.

The first potential neutralization is denial of victim. Hachette uses Amazon to sell their books. They are not obligated to use Amazon, and if they want to use Amazon then they can expect to have to follow Amazon’s rules. And so this argument would say that Hachette is not a victim, and in fact should reasonably expect to have to follow Amazon’s rules if it wants to enjoy their benefits.

The second is denial of injury. Amazon did nothing illegal, because as in the denial of victim argument, it is their marketplace and they are not discouraging competition by wanting to have their marketplace prices low. Amazon would argue that in this way there is no injury. Both of these neutralizations can be argued for, but some still see Amazon’s actions as unethical business practices. The key here to both arguments is that Amazon is optional for these companies and for consumers. In this way it can be said that Amazon is not hurting anyone, and in fact the opposite is true. They have done so well because of how much value they provide to consumers and to other companies.

**Amazon chooses to forego profits in favor of expansion**

As a wide company in terms of market coverage, Amazon has a lot of ways that it provides value. However, Amazon’s scale also provides the potential for monopoly power. Amazon’s business strategy has always revolved around scale, as the company even forgoes profits in favor of horizontal and vertical expansion, often through the acquisition of other firms. By this strategy, Amazon has become a dominant force in many different markets. Amazon is most well known as an online marketplace. They control over 50 percent of e-commerce in the United States, and almost half of all online buyers go directly to Amazon to search for products. In addition to this the company participates in cloud computing, payment processing, entertainment and streaming, shipping, and more. With their own payment processes, products, and a shipping fleet that rivals the federal postal service, Amazon controls all the stages of production and distribution of their products. This magnitude of market height and width gives Amazon leverage and power that most companies don’t have.

One of Amazon’s most profitable areas is their cloud computing service, Amazon Web Services. AWS makes it easy for companies to create an online presence through apps or websites. Instead of investing in servers and website infrastructure, the company can use AWS to accomplish all of this for much cheaper cost. Because of this, Amazon is in reality encouraging competition. Over 1 million different companies use AWS, and AWS controls over a third of the cloud computing market. This means that of all the online retail companies starting up, about a third are using AWS to power their website.

This creates interesting conflict-of-interest issues for Amazon. *The Business Ethics Field Guide* defined a conflict of interest as when “multiple roles put you at cross purposes”. Amazon’s two roles here, one as a cloud computer and one as an online marketplace, gives it different competing interests. As increasingly many online retailers use AWS, more and more of the market becomes dependent on Amazon to keep their site running and working. So as an online retailer Amazon is a competitor, but through AWS Amazon is also controlling the framework that their rivals depend on.

In addition to the conflicts of interest brought about through AWS, Amazon has another potential conflict of interest with regards to third-party data. Since Amazon hosts other retailer’s products on their site, they have access to all of the data on those companies’ products. This gives Amazon access to a far greater amount of data than do their competitors on their marketplace. They can see consumer habits and interests, what customers have viewed, and pricing for past, present, and future of other companies’ products. In October of 2020, the House Judiciary antitrust subcommittee reviewed Amazon’s potential monopoly power in the online retail market, and their potential unfair advantages with AWS. Although Amazon may not have exploited any of these advantages yet, the issue that the House Judiciary subcommittee sees is that Amazon certainly has the potential to exploit it. Should another company ever challenge Amazon in terms of scale and market share, Amazon would certainly be tempted to do so.

In their report, the House Judiciary subcommittee concluded that Amazon’s role as a dominant provider of cloud-computing services and its power in other markets creates a conflict of interest that “Amazon has the incentive and ability to exploit” (*CNBC*, “Amazon Bullies Partners and Vendors, Says Antitrust Subcommittee”). This suggests that they feel that the current antitrust laws are inadequate, focusing primarily on pricing and consumer good. Lina Kahn, who was recently nominated by President Biden to fill a vacancy in the FTC, wrote, “Focusing primarily on price and output undermines effective antitrust enforcement by delaying intervention until market power is being actively exercised, and largely ignoring whether and how it is being acquired. In other words, pegging anticompetitive harm to high prices and/or lower output—while disregarding the market structure and competitive process that gives rise to this market power—restricts intervention to the moment when a company has already acquired sufficient dominance to distort competition” (*The Yale Law Journal*, “Amazon’s Antitrust Paradox”, 2017). In other words, Ms. Kahn and the House Judiciary subcommittee both want to bring the FTC’s definition of unfair advantage more in line with the *Business Ethics Field Guide*’s definition of unfair advantage.

This exploration into Amazon’s unfair advantage shows how difficult it can be to apply certain ethical principles in the business world. Especially when dealing with the principles on the level of an entire firm rather than on an individual level, it can be difficult to capture what is required to enforce ethical practices legally. The positive note is that it is apparent that people are ethically aware, and are trying their best to make sure that Amazon and similar firms are held to a high ethical standard.

Sources:

* Lena M. Khan, *Amazon’s Antitrust Paradox*, Yale Law Journal 2017
* <https://www.cnbc.com/2020/10/06/amazon-bullies-partners-and-vendors-says-antitrust-subcommittee.html>
* <https://www.theguardian.com/books/2014/nov/13/amazon-hachette-end-dispute-ebooks>
* <https://techcrunch.com/2021/03/10/facebook-challenges-ftcs-antitrust-case-with-big-techs-tattered-playbook/amp/>