Amazon submission to the House of Lords EU Internal Market Sub-Committee inquiry into online platforms in the EU Digital Single Market

1. Amazon welcomes the opportunity to respond to the House of Lords EU Internal Market Sub-Committee inquiry. We have therefore sought to reply to the Committee's questions from the perspective of an ecommerce website that not only sells our own products but also allows other businesses to sell their products alongside ours.

2. We do not agree with the Commission's definition of "online platforms", as it is overly broad. We believe that there are few common threads to link such diverse businesses models as online marketplaces, collaborative or 'sharing' economy businesses, communication companies, social networks, search engines and specialised search tools, maps, news aggregators, music providers, video sharing sites, payment systems and app stores. We further take the view that bringing all such businesses under a single heading could lead to unnecessary, inappropriate and possibly unworkable regulation and thereby impede innovation, reducing benefits to consumers and to society. We do not see the need for a new competition law regime for what the Commission defines as "platform" businesses.

3. The twenty years since Amazon was launched has seen an extraordinary pace of technological change, bringing with it great benefits for customers, for businesses and for citizens. Technological change has transformed the way people shop, learn, transact with public services, communicate and manage their lives with almost every one of these interactions now being simpler and easier.

4. Amazon is guided by four principles: customer obsession rather than competitor focus, passion for invention, commitment to operational excellence, and long-term thinking.

5. Our goal of offering customers everything they want to find, discover and buy online led to the creation of Amazon Marketplace, a programme permitting third-party sellers to offer customers a broad selection of products directly alongside (and often overlapping with) products sold by Amazon itself.

6. Sellers who list their products on Amazon's websites are the sellers of record, responsible for sourcing and pricing their products, managing inventory, and (if they choose) fulfilling customers' orders and processing any returns. Amazon is responsible for providing the tools that sellers use to list and manage their products, generating traffic to the website, processing payments, and providing our "A-z Guarantee" that offers customers a guarantee on purchases made from third-party sellers on Amazon. Sellers further benefit from the investment that Amazon has made in creating an easy-to-use website, where customers can use a wide range of mechanisms to discover and buy the products they want (whether sold by Amazon or third-party sellers), including search, personalised recommendations, customer reviews, and much more. In addition, Amazon makes it simple for sellers to offer their products across all Amazon's European websites from a single account, reaching customers across the 28 EU countries and beyond. In many respects, our approach is similar to the mechanics of a shopping centre or department store that acts as a host for other sellers or merchants. While there are of course differences between selling online and offline, there is already an effective, existing regulatory and legal framework to safeguard customers and competition in both the online and offline cases.

7. More than one million third-party sellers worldwide sell their products on Amazon's websites today, accounting for 46% of units purchased by customers[1].   In the UK, Amazon customers can choose from nearly 150 million products on Amazon.co.uk. That choice is made possible in part by the third-party sellers who list their products on the same pages that Amazon lists its products, reaching the same customers.   Sellers range

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[1]Q3 2015

from individuals, to entrepreneurs who have built businesses selling online, to established businesses including Debenhams, Clarks Shoes and House of Fraser. Tens of thousands of small and medium sized businesses across Europe sell their products directly to customers in Europe and around the world on Amazon's websites. In 2014, small and medium-sized businesses ("SMEs") generated intra-EU exports of €2.8bn through Amazon's websites. In the same period, UK-based SMEs who sell on Amazon's various websites in the UK and around the world sold more than 400 million units in total, and generated more than £1 billion of exports (sales delivered to an address outside the UK).

8.   Third-party offers for a given product are presented on the same web page as Amazon's own offer. Where a third-party seller has the better offer, its offer will be featured above Amazon's.

9.   Amazon offers several additional, optional services to help Marketplace sellers succeed including Fulfilment by Amazon (FBA). For sellers who choose to use FBA, Amazon takes responsibility for warehousing, delivery, returns and customer service. Sellers in Europe can choose to use this service across all of Amazon's European websites from a single account. Sellers benefit from Amazon's reliable, flexible, low-cost infrastructure without requiring additional capital investment, and many sellers find FBA is less expensive than handling the same functions themselves. At the same time, customers purchasing products from sellers who use FBA benefit from fast, reliable, and often free delivery. As a result, sellers who use FBA often find that their sales increase.

Section 1: Online platforms, consumers, suppliers

Defining online platforms

1.   **Do you agree with the Commission's definition of online platforms?**

10. We do not believe that it is useful to try to craft a single definition to cover such diverse business models, services and sectors.

11. We note that the Chief Executive of the CMA, Alex Chisolm seemed to hold a similar view when he said on 27 October: "*I challenge you to tell me what characteristics the following online models uniquely share: communications and social media platforms; operating systems and app stores; audiovisual and music platforms; e-commerce platforms; content platforms (itself a diverse group); search engines; payment systems; sharing platforms … and the list could go on.*"[2]

2.   **How and to what extent do online platforms shape and control the online environment and the experience of those using them?**

12. Retail (both online and offline) is highly innovative, dynamic and competitive. The existence of very wide competition and ease of entry and exit drives alignment with customer desires. As a result, customers have a large and rapidly expanding choice of providers and business models, online, offline and multi-channel. Sellers also have a wide choice of routes to reach customers and often use many channels. The degree to which any business can "shape" the online environment is determined by customer choices and sharply constrained by ever accelerating innovation and competition to meet customers' desires.

13. Ecommerce websites offer customers far greater choice, selection, and convenience than they could otherwise obtain in their immediate geographic area. Customers in remote, rural areas can discover, compare and choose from the same range of products as customers in London. Amazon's website is one such offering among very many others.

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[2] https://www.gov.uk/government/speeches/alex-chisholm-speaks-about-online-platform-regulation

14. It is worth noting, however, that, while growing, online sales will account for just 14.5% of total UK retail sales in 2015[3] , shared by a multiplicity of sites and sellers, including multichannel sellers. In the EU the Commission reports that ecommerce is growing rapidly but still amounted to only 7% of total retail sales in 2014[4].

15. Ultimately, both online and physical retailers must constantly respond to the evolving needs of their customers - or be replaced by other providers.

Effects on consumers, suppliers (including SMEs), competitors and society

3. What benefits have online platforms brought consumers and businesses that rely on platforms to sell their goods and services, as well as the wider economy?

16. For consumers the principal benefits are increased choice, lower prices and greater convenience. Ecommerce has greatly added to customer choice. Online retailers like Amazon, and the third-party sellers who sell on Amazon's website and many other websites, can offer a broad selection of products as they are not constrained by shelf space and can bring together many different sellers on the same website. Online customers can therefore readily find a multiplicity of offers, on Amazon or many other sites, so that they can browse, compare and seek the best offers for the same range of products and choose to buy them online or locally.

17. The presence of many competing sellers on the same ecommerce site strengthens competition to provide the best offers and prices. It also enables customers to easily compare competing offers by brand, quality, price, speed of delivery or other attributes and select the offers that best meet their needs.

18. Customers can order conveniently from home or while on the move by smartphone or tablet and can select next-day or same-day delivery without leaving their home or making multiple journeys to search for or compare products. Specialist products can be easily found right across the country. Orders can be delivered to the customers' homes or to thousands of convenient collection points.

19. Small businesses can greatly extend their customer reach and visibility. Sellers on Amazon sell through a safe, secure, trusted brand with a high degree of customer confidence. They can, if they choose, reach millions of customers in multiple countries from a single account. Amazon services such as Fulfilment by Amazon enable businesses to improve their customers' experience at a competitive and predictable cost and to grow without tying up capital investment in warehousing.

5. In addition to concerns for consumers and businesses, do online platforms raise wider social and political concern?

20. We do not believe so. In the case of ecommerce we believe that it offers significant benefits and opportunities to communities from increased choice, convenience and low prices to the ability to create and sustain businesses of all kinds, from sole traders to large enterprises. Although their reach is now much greater, these undertakings are fundamentally similar to traditional retailers. Existing legal and regulatory frameworks of consumer protection, data protection and competition law have proven to be highly effective in protecting buyers and sellers across the range of traditional and more innovative models for many years.

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[3] http://www.emarketer.com/Article/UK-Retail-Ecommerce-Sales-Reach-60-Billion-This-Year/1012963
http://www.statista.com/statistics/285978/e-commerce-share-of-retail-sales-in-the-united-kingdom-uk/
[4] http://ec.europa.eu/priorities/digital-single-market/docs/dsm-swd_en.pdf page 7

6. Is the European Commission right to be concerned about online platforms? Will other initiatives in the Digital Single Market Strategy have a positive or negative impact on online platforms?

21. The consumer ecommerce segment is flourishing under existing controls. Ecommerce is subject to intense online and offline competition which incentivises participants to provide the best possible customer offers and service. There is a great deal of information freely available from customers, news media, consumer advice services and word of mouth and rigorous and effective scrutiny by all of these parties as well as by regulators.

22. The Digital Single Market brings significant benefits to customers and sellers. The persistently low level of cross-border commerce is however indicative of the areas where completing the Digital Single Market would greatly strengthen ecommerce sellers' efforts to meet their customers' needs and give customers greater confidence in buying across EU borders. Among these are:

- *Selective distribution:* Some manufacturers restrict the range of products internet retailers are permitted to sell online. Originally only top-end luxury goods and high end technology imposed such restrictions. Increasingly many every day brands have begun to restrict sales via ecommerce.
- *Parcel delivery:* The high costs of cross-border deliveries is a burden to e-shoppers and e-retailers alike. We believe that the price of delivery should reflect the distance not the number of borders the package must cross.
- *VAT:* Calculating and managing VAT remains very difficult and even prohibitive for our sellers who want to sell cross-border. We try to make it easy, but the overall system remains onerous and inconsistent and could be considerably simplified, particularly for sellers beneath an agreed threshold.
- *The anomaly in the VAT treatment of ebooks vs printed books should be resolved.* A book is a book. Higher ebook taxes particularly deter price-sensitive readers from buying new books. Authors lose sales, particularly self-published authors who are more reliant on digital than print sales and have minimal marketing budgets.
- *Pragmatic copyright reform:* It is important to protect intellectual property rights but copyright should be updated for the digital age. Private copy levies (e.g. on blank media) and complex and costly licence management (digital content) are barriers to cross border e-commerce. Consumers should not have to pay two levies for a MP3 player because it is purchased from a web site in a different country. This is the reality today unless the e-retailer bears these additional costs (as Amazon currently does). Private copy levies should be paid once, in the country where the device is first placed on the market in the EU. These levies no longer reflect how consumers use digital media products. There should be a general shift away from private copy levies towards a licensing model where private copying for private use is included in the licensing scheme

Section 2: Competition, data, collaborative economy

Competition and dominance

7. Is there evidence that some online platforms have excessive market power? Do they abuse this power? If so, how does this happen and how does it affect you or others? [8] Online platforms often provide free services to consumers, operate in two- or multisided markets and can operate in many different markets and across geographic borders. Is European competition law able adequately to address abuse by online platforms? What changes, if any, are required?

23. The term "Online platforms" encompasses a very broad range of disparate business models. We do not see evidence of such problems among ecommerce businesses. Ecommerce is highly competitive, dynamic and innovative and is governed by and responds to consumers' demands, like and dislikes. Sellers have a wide choice of sales channels. Anyone can quickly and inexpensively create a website using widely available tools

and start selling almost immediately. Sellers are not dependent on any single channel but can sell using many simultaneously, including their own websites and physical stores. None of these channels is mutually exclusive.

24. E-commerce businesses face healthy competition from different online and offline sales channels. The level of competition in the sector is evident in the drive to innovate and create new services, to win customers who have many choices available to them.

25. European competition law already provides strong safeguards to promote competition and protect consumers. Ecommerce services are and should remain subject to general competition law, as well as to general consumer protection and data protection law (with the same obligations applying to all sectors). We cannot see a justification for a special regime for online as distinct from other retail businesses and are concerned that unnecessary additional rules could not only hinder innovation but also create a discriminatory legal regime where online and offline businesses compete but would be treated differently. We believe that by enabling customers to easily compare products, offers, prices and services online retail often offers customers greater transparency and, consequently, greater reassurance.

26. Over the past decade there has been rapid innovation by ecommerce providers to develop new services for customers. Intervention to restrict such innovation could have the unintended consequence of restricting or removing consumer benefit. We believe that clear evidence of damage to consumers' welfare should be the only instance in which new regulation is considered. We believe that consumers have benefitted from the development of online businesses.

27. We agree with the comments of the CMA Chief Executive, Alex Chisholm, who said on 27 October that: "*blanket solutions should be avoided*". He called instead for "*an evidence-based assessment of potential adverse effects of specific industry features or practices*" to be carried out before any enforcement tools are deployed. He added that "*this should be closely targeted to the specific harm identified, and every care given to avoid disproportionate actions and unwelcome side-effects. In that respect, online platforms and the digital economy do not differ from any other sector: there is no need to reinvent the regulatory wheel*."

Collection and use of data

9. What role do data play in the business model of online platforms? How are data gathered, stored and used by online platforms and what control and access do consumers have to data concerning them?

28. Any ecommerce business must collect data in the course of its business. For example, address data is required to deliver to the right location. Customers expect to be able to access their order history and this also helps Amazon to recommend relevant products to each customer. Data on products typically bought together enable the retailer to show customers offers relevant to them. Someone who has bought books by one author may be offered the next book by the same author or titles in the same genre.

29. Amazon takes our customers' privacy and the security of their data very seriously. In particular, customers are able to access, view and change their preferences about how their data is used through their online Amazon account. The information we collect and use, and the choices and rights of our customers, can be seen in our online privacy notice which is accessible through every page of our EU websites (www.amazon.co.uk/privacy).

10. Is consumer and government understanding and oversight of the collection and use of data by online platforms sufficient?

30. European data protection authorities are highly engaged in educating EU citizens about their rights and remedies in the context of data protection.

11. Should online platforms have to explain the inferences of their data-driven algorithms, and should they be made accountable for them? If so, how?

31. Amazon uses algorithms for a variety of purposes from ensuring that parcels are delivered on time to showing customers products relevant to them based on their and others' previous purchasing history. Like everything at Amazon, this is guided in every instance by our drive to better serve customers, including ensuring that customers' experiences are intuitive and easy to understand. For example, on Amazon's websites there are many occasions where we show the customer a recommendation and they also see a message saying "Why recommended?" which shows which previous purchases have led to this recommendation. Customers have the ability to remove individual or multiple purchases from being used for recommendations and can remove items from their [browsing history](). On the "[About recommendations]()" page we explain how we make recommendations based on the items the customer has purchased, rated, or told us that they like.

The current regulatory environment and possible interventions

13. How are online platforms regulated at present? What are the main barriers to their growth in the UK and EU, compared to other countries?

32. Among the barriers to greater use of ecommerce for cross-border purchasing and selling in the EU are inconsistent regulation and administrative differences across borders. In answer to question 6 we set out the areas in which we believe action is required so that consumers can realise the benefits of the Digital Single Market across Europe.

14. Should online platforms be more transparent about how they work? If so, how?

33. We believe that our customers and sellers have a high degree of visibility about how Amazon's websites work as explained above. Customers can see in list form how many sellers offer a similar product, the variance in price point and the different services offered. There is a great deal of scrutiny of ecommerce sites and independent information is freely available to customers from Amazon itself and many other sources. Sellers too have many information pages on the site that show them how to list their products, how they will be paid, how the site works and how to succeed on Amazon.

34. In addition there is an effective framework of consumer protection and competition law to protect buyers and sellers.

16. Are these issues best dealt with at EU or member state level?

35. It is important for customers and for sellers using ecommerce sites to have a consistent regulatory framework across member states as far as possible. Inconsistent regulations cause confusion and impose unnecessary costs of compliance across member states and make it difficult for cross border businesses to grow their operations to scale. Such inconsistency can also undermine customer confidence and deter cross border commerce and runs counter to the principles of the EU Digital Single Market. In paragraph 23 we set out the main areas in which we believe that action at EU level would bring the greatest benefit to consumers and to the economy.