



Deep Dive: Digital Economy Antitrust

Here is a breakdown of the provisions of S. 2992 / AICOA and how they would impact small sellers:

1. Section 3(a)(1) prohibits preferencing of a platform's own services, including Fulfillment-by-Amazon, the shipping, warehousing, delivery, and customer service program that helps small sellers qualify for Prime.
 - If FBA is alleged to be part of a broad anti-competitive effort, Amazon could choose to shut down access to third-party sellers, and that would be disastrous for millions of small businesses that use FBA to simplify their lives, save money, and qualify for Prime.
2. Section 3(a)(5) may flat-out prohibit Amazon from offering FBA all together. If small sellers cannot use FBA, then
 - Amazon will not be able to assist in the management of a small sellers' inventory and therefore could not guarantee their products' on-time delivery - so small sellers' products will not qualify for Prime. Customers will lose because fewer products have Prime guaranteed delivery, and small sellers will lose because consumers are less likely to purchase their non-Prime products.
 - Seamless FBA services reduce sellers' logistical headaches and save sellers an average of 30% compared to independently procured services. Time and money are resources that small businesses value, and 30% can be the difference between bankruptcy and profitability.
3. Section 3(a)(9) would prohibit Amazon's search results from favoring its own services, including Prime. This would harm many millions of Prime consumers who want to see Prime products first, and millions of Prime sellers who would lose some of the valuable marketing benefits of being Prime.
4. Section 3(a)(2) would prohibit Amazon from imposing standards that would in any way limit a small seller's ability to compete with products that Amazon sells, which means Amazon could not impose marketplace limits on shoddy, overpriced, or counterfeit products if Amazon competes in the same space. Product and customer service standards are critical for marketplace trust, so this provision will result in less consumer trust, which hurts all sellers – particularly small sellers with smaller marketing budgets.
5. AICOA is not enforceable legislation. It is intrusive regulation that could force Amazon to separate into two storefronts – the Amazon.com retail store and a separate marketplace website. This would be a terrible outcome for consumers and small sellers, as it would divide consumers and offer fewer opportunities to connect with small sellers. The store/marketplace integration is a 1-stop cornerstone of consumer happiness and seller success. It would be ludicrous for Congress to micro-manage one retailer because it is making too many consumers happy. It would be more ludicrous if in this case the micro-management also hurts millions of American small businesses.