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Unions hope to sic FTC on Amazon

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SEATTLE — The International Brotherhood of Teamsters, with its 1.4 million truck drivers, warehouse workers and other transportation laborers, does not represent any Amazon workers, nor is it organizing them. But the union keeps butting into the e-commerce giant, which ships billions of packages a year.

The Teamsters joined several other major labor unions in filing a petition Thursday asking the Federal Trade Commission to open a wide-ranging study into Amazon's business practices. The unions, which represent more than 5 million U.S. workers, hope to sic the antitrust regulator on a company increasingly reaching into the industries they represent.

"We wanted to demonstrate that there is a real desire to see them take this on," said Michael Zucker, director of Change to Win, a federation of labor unions that led the effort.

The petition asks the FTC to use its broad powers to gather nonpublic information about a company's or industry's effects on commerce. In a 28-page document with 149 footnotes, the unions lay out areas they think the FTC should explore, including whether Amazon requires companies to use more of its services to succeed on its marketplace.

The petition, which took several months to prepare, is a greatest hits of concerns reported in the press, but the unions said it should just be a starting point.

"You could just say to the FTC, 'Look into this company,'" Zucker said. "The reason why we laid out a detailed case for why was because we were trying to convince the FTC in the request that they look at the company in all of its manifestations and all of its systems."

Amazon said it had created more than 500,000 jobs domestically for people with various education levels, training and skills.

In an op-ed published in The New York Times this month, Jay Carney, who runs the company's communications and policy teams, argued that Amazon used its scale for good. "Because Amazon is a large company with hundreds of thousands of employees, as well as contractual relationships with hundreds of thousands of other businesses of all sizes, what we do can generate positive ripple effects across the country," he wrote.

Carney said the company's minimum wage of \$15 an hour had pushed other employers to increase pay, and "in keeping with what political leaders say they want to see from companies, Amazon has plowed \$270 billion into the domestic economy since 2010." That sum includes money Amazon has spent on payroll, buildings, equipment and other business investments.

Various liberal groups have gone after Amazon for its impact on workers, competition and communities around the country. Last year, many of the groups formed a coalition called Athena to coordinate their criticism of the company. Competitors like Walmart have funded research into negative impacts of Amazon.

The company has also become a target for elected officials, including candidates vying to be the Democratic nominee for president. Sen. Bernie Sanders, I-Vt., has pressured it over the wages and working conditions for its warehouse employees.



PHILIP CHEUNG

FILE -- An Amazon fulfillment center in Eastvale, Calif., Nov. 22, 2019. Several major labor unions filed a petition on February 27 asking the Federal Trade Commission to open a wide-ranging study into Amazon's business practices. (Philip Cheung/The New York Times)

Sen. Elizabeth Warren of Massachusetts has said it should be broken up. And former Vice President Joe Biden said last year that he had “nothing against Amazon, but no company pulling in billions of dollars of profits should pay a lower tax rate than firefighters and teachers.”

Amazon has yet to disclose receiving requests for information from antitrust investigators at the Justice Department or FTC, and it has not been publicly targeted by state attorneys general, unlike Google and Facebook. The company has continued its push into even faster deliveries and recently announced it was building a warehouse dedicated to the kind of house-brand products that critics say push smaller competitors out of the market.

While Amazon’s workers are not unionized, those at some suppliers and competitors are, and they feel pressure to adapt to Amazon’s business. For the Teamsters, Amazon is a major customer of the transportation companies where they work, and the company is building its own delivery network through a series of small contractors and gig-economy drivers, who aren’t unionized.

“We have watched Amazon’s logistics infrastructure grow pretty exponentially over the past few years,” said Iain Gold, a director with the Teamsters. “That has a direct impact when we are at the bargaining table with UPS or DHL or other companies.”

In their 2018 contract negotiations, UPS and the Teamsters agreed to create a new job type, with lower pay, to service demand for weekend e-commerce deliveries, a trade-off that some union members resisted.

In their petition, the unions ask the FTC to study whether Amazon forces its third-party merchants to buy its delivery fulfillment services if they want to rank high and succeed on the site, a move that they say could harm competing shipping and logistics providers.

Amazon said its fulfillment services were optional, but many sellers loved them “because it gives them peace of mind knowing that shipping logistics and customer service are taken care of 24/7, year-round,” a spokesman, Jack Evans, said in a statement.

A spokeswoman for the FTC, Betsy Lordan, said the agency had received the labor groups’ petition.

In 2000, the Communications Workers of America tried to organize Amazon’s customer service workers, as an outgrowth of its work with the telecom industry. The company pushed back, and the unionization effort failed.

The union has since followed how the company affects its industries. It represents workers in AT&T’s retail stores, which compete with Amazon for phone sales, for example, and the union in January announced plans to organize tech workers, starting with people in the gaming industry.

Tom Smith, head organizer at the communication workers’ union, said it turned to the FTC because much about Amazon’s business is still a mystery, even to a union that has followed it for two decades. “We see a company that we know very little about, that is very secretive, that there are just tons of unknowns,” Smith said.

Smith declined to comment on whether his union was trying to organize Amazon’s tech workers. (The NewsGuild, which represents journalists at The New York Times, is part of the CWA.)

The United Food and Commercial Workers International Union, which represents grocery workers at companies like Kroger and Safeway, began closely tracking Amazon after it bought Whole Foods for more than \$13 billion in 2017. The move catapulted Amazon from the 17th-largest grocer in the country to the sixth largest, according to the investment bank Cowen.

The grocery workers’ union was particularly interested in a question the petition asks the FTC to study: whether Amazon depresses wages in areas where it is a major employer. The petition estimated that half of all warehouse workers in Mercer County, New Jersey, were employed by Amazon. Federal data shows that warehouse wages in the county have fallen 18% since 2014, when Amazon opened its largest fulfillment center in the state there, according to the petition.

Evans said that Whole Foods represented just 4% of grocery sales domestically, and that Walmart and Kroger sell far more. “This competition ultimately leads to innovation for consumers, as you can see across the grocery industry right now,” he said.

The Service Employees International Union, with 2 million members in health care, the public sector and other industries, also joined the petition.

The labor groups are making a novel use of the FTC's right to conduct research into how a market or industry works, using its legal authority to compel companies to provide private information. The results of these studies can influence policy changes at the agency or inform its efforts to police an industry.

In the past, these studies have been used to look at other industries, as varied as data brokers and pharmaceuticals. One study into hospital mergers bolstered the agency's ability to successfully challenge new deals, while others have led to legislative changes. This year, the agency said it would research smaller acquisitions by major tech companies, including Amazon.

It is far less common for the agency to do what the unions are requesting: begin an inquiry explicitly into a single company.

"Generally, if you want to investigate a company you open up an investigation and you investigate them using the normal enforcement authority," said Michael Kades, the director of markets and competition policy at the Washington Center for Equitable Growth and a former FTC lawyer.

While these types of studies are separate from the agency's enforcement investigations into specific alleged legal violations, information they unearth can be used to advance cases against the companies in question.

Tim Wu, a professor at Columbia Law School and an advocate for greater antitrust enforcement, said the approach made sense because the FTC has struggled to find a single route into an investigation of Amazon — where low consumer prices provide a shield against antitrust action. (Wu is on the advisory board of the Open Markets Institute, an influential group that has called for the breakup of Amazon. He is also a New York Times contributing opinion writer.)

"I think the unions here are thinking, 'There's a lot of concerns raised by Amazon and the FTC kind of has a blind spot,'" said Wu, who reviewed a draft of the groups' petition.