THE HONORABLE JOHN H. CHUN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION, *et al.*,

Plaintiffs,

v.

AMAZON.COM, INC., a corporation,

Defendant.

CASE NO.: 2:23-cv-01495-JHC

JOINT STATUS REPORT

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

TABLE OF CONTENTS

I. PRELIMINARY STATEMENTS 3

A. PLAINTIFFS' PRELIMINARY STATEMENT 3

B. AMAZON'S PRELIMINARY STATEMENT 5

II. STATUS OF LITIGATION 7

III. PLAINTIFFS' REPORT ON THE STATUS OF DISCOVERY 8

A. AMAZON'S DISCOVERY RESPONSES AND PRODUCTIONS 8

B. PLAINTIFFS' DISCOVERY RESPONSES AND PRODUCTIONS 16

C. THIRD PARTY DISCOVERY 17

D. COORDINATION ISSUES 18

IV. AMAZON'S REPORT ON THE STATUS OF DISCOVERY 18

A. AMAZON'S STATEMENT REGARDING ITS RESPONSIVE DISCOVERY 19

B. PLAINTIFFS' RESPONSES TO AMAZON'S REQUESTS FOR PRODUCTION 25

C. THIRD PARTY DISCOVERY 25

D. AMAZON'S REPORT ON STATUS OF COORDINATION 27

V. PENDING MOTIONS 28

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

Pursuant to the February 13, 2024 Case Management Order ("CMO"), Plaintiffs Federal Trade Commission ("FTC") and the states and territories of New York, Connecticut, New Hampshire, Oklahoma, Oregon, Pennsylvania, Delaware, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Puerto Rico, Rhode Island, Vermont, and Wisconsin, by and through their respective Attorneys General (together, "Plaintiff States," and collectively with the FTC, "Plaintiffs") and Defendant Amazon.com, Inc. ("Amazon") submit this joint status report in advance of the parties' June 6, 2024, quarterly status conference with the Court.

This JSR is organized as follows: the parties provide brief preliminary statements beginning at page 3. Plaintiffs' Report on the Status of Discovery begins at page 8. Amazon's Report on the Status of Discovery begins at page 18. The parties provide a list of pending motions at page 28.

I. PRELIMINARY STATEMENTS

A. PLAINTIFFS' PRELIMINARY STATEMENT

The parties are seven months into fact discovery, with approximately 14 months remaining. Amazon has produced approximately 2,850 documents from its files, of which approximately 2,200 are reproductions of documents produced in other cases. Assuming Amazon meets its commitment to complete its reproduction of documents from other cases by July 1, that process will have taken more than six months. Amazon has estimated that it will not complete its productions of certain targeted "go-get" documents until February 2025, and has only recently agreed to begin negotiations regarding custodians, sources of non-custodial documents, and the methods it will use to search for documents responsive to Plaintiffs' discovery requests. The FTC and Plaintiff States, on the other hand, have produced more than 326,300 documents, including documents from more than 110 third parties and responsive

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

documents identified after a search of approximately 200 custodians, and have substantially completed their production of non-privileged pre-Complaint communications with third parties related to Plaintiffs' respective investigations.

Plaintiffs are concerned about the limited progress Amazon has made in responding to discovery. Amazon has produced only a handful of documents to date, is maintaining unfounded relevance objections to many of Plaintiffs' document requests (a sample of which are discussed below), and is continuing to object to an interrogatory seeking information about any procompetitive justifications Amazon contends are associated with the interrelated conduct challenged in the Amended Complaint. While Plaintiffs are hopeful that the parties can resolve or at least narrow these issues, and that Amazon will begin to make more progress in document and data production, Plaintiffs may need to seek relief from the Court.

Amazon repeatedly cites its production of approximately 1.7 million documents during Plaintiffs' pre-Complaint investigation to suggest that it is making good progress in discovery, or that any further discovery should be limited. That is not the case. Amazon itself has argued that the materials it produced during Plaintiffs' investigation "go beyond the allegations in the complaint and therefore are not all responsive to requests served in the litigation." That is because government investigations serve a different purpose than discovery in litigation, as Plaintiffs explained in the parties' initial Joint Status Report. *See* JSR at 29, Dkt. #135. The purpose of an agency's "pre-complaint . . . investigation is not to 'prove' its case but rather to make an informed decision on whether or not to file a complaint." *United States v. GAF Corp.*, 596 F.2d 10, 14 (2d Cir. 1979); *see also Oklahoma Press Pub Co. v. Walling*, 327 U.S. 186, 201 (1946) (agency investigations are intended to "discover and procure evidence, not to prove a pending charge or complaint, but upon which to make one if, in the Administrator's judgment,

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

the facts thus discovered should justify doing so."). As a result, investigations often encompass topics that are not relevant to the case that is ultimately filed. On the other hand, discovery in litigation probes more deeply into topics that are relevant to the case.

Moreover, major antitrust cases routinely involve far more documents than Amazon produced in Plaintiffs' pre-Complaint investigation. In *United States v. Google LLC*, Google produced approximately three million documents in the pre-complaint investigation, and another three million documents during the litigation itself. *See* Google LLC's Fifth Status Report Regarding Document Review and Production at 1, *United States v. Google LLC*, No. 23-cv-00108, Dkt. #485 (E.D. Va. Oct. 13, 2023). Notably, Google produced just under 2 million documents in less than 30 days—proof that document production *can* move quickly when ordered by a court. *See* Google LLC's Fourth Status Report Regarding Document Review and Production at 1, *United States v. Google LLC*, No. 23-cv-00108, Dkt. #478 (E.D. Va. Oct. 6, 2023). Other recent antitrust cases have likewise involved significant document discovery. *See* Mem. in Support of Meta Platforms, Inc.'s Motion for Summary Judgment at 40, *FTC v. Meta Platforms, Inc.*, No. 20-cv-3590, Dkt. # 324-1 (Apr. 5, 2024) (more than 5.6 million documents); Order Granting Preliminary Approval of Class Action Settlement at 3, *Cameron, et al. v. Apple*, No. 19-cv-3074, Dkt. # 453 (Nov. 16, 2021) (more than 5 million documents); *see also* Order Granting Complaint Counsel's Motion to Compel at 3, *Kroger*, Dkt. No. 9428 (May 22, 2024) (over 13.6 million documents produced during a pre-complaint investigation).

B. AMAZON'S PRELIMINARY STATEMENT

Discovery is proceeding in an efficient manner for a case of this size. Plaintiffs served a large number of discovery requests on Amazon, including 349 Requests for Production. Amazon has engaged in good faith in 26 meet and confer sessions with Plaintiffs. Those meet and confer sessions have generally proceeded on agendas requested by Plaintiffs that covered

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

only a limited number of Plaintiffs' requests and required substantive follow up from either or both sides. To date, more than 150 of the requests have not even been discussed in these meet and confer sessions. Amazon has begun making productions, and it has committed to dates for substantial completion of agreed future productions. It has already produced 70,000 pages of documents responsive to Plaintiffs' first set of requests, which sought a targeted collection of certain types of documents.[1] Amazon has already made productions from the discovery record in the earlier-filed, related *California v. Amazon* action (in which document discovery has been ongoing during the past six months), and expects to produce the remaining documents by July 1. Like Plaintiffs have done with third party productions they received during the investigation, Amazon has been working to provide notice to third parties whose information may be contained in the *California* materials, as required by that action's Protective Order. Amazon anticipates that the majority of targeted document collections it has agreed to produce in response to Plaintiffs' Second and Third Sets of Requests for Production will be complete in the next four months; some voluminous data requests may take longer. Amazon has also agreed that the 1.7 million documents (10 million pages) and 100 terabytes of data produced in the pre-complaint FTC investigation can be part of the record in this case—which is significant because the time period and subject matters covered by that investigation overlaps with the time period of Plaintiffs' discovery requests.

Plaintiffs present a lengthy description of the positions they have taken in the meet and confer process, but they do not present any disputes for the Court's resolution, presumably

[1] Plaintiffs criticize the volume of new Amazon documents produced to date in response to those initial requests, while also arguing that those requests were targeted. The fact is that Plaintiffs' first set of requests called for specific documents rather than large volumes of documents and data. Those requests still imposed a burden on Amazon to search for, review, and produce responsive documents.

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

because they recognize their voluminous and wide-ranging requests require meaningful conferral. It should be no surprise to Plaintiffs that understanding their Requests for Production, investigating whether documents and data exist and where, collecting documents and preparing them for production, and addressing third party needs takes time and effort. Indeed, Plaintiffs themselves needed six months to reproduce third party documents and what they claim are their own investigative files—all of which were or should have been collected prior to filing this lawsuit.

There is no question that the record in this case will be large, and the fact discovery period accounts for effort that will be needed to complete productions. Amazon expects that the parties can continue working cooperatively to ensure the record is developed in a way that accounts for the fact that gathering, reviewing, and producing voluminous documents and data takes time and effort.

II. STATUS OF LITIGATION

Plaintiffs filed the Complaint on September 26, 2023, Dkt. #1, and filed an Amended Complaint adding Puerto Rico and Vermont as Plaintiffs on March 14, 2024, Dkt. #170. Amazon filed a motion to dismiss the Complaint on December 8, 2023, Dkt. #127, which the parties agreed and the Court ordered would be deemed to be Amazon's motion to dismiss the Amended Complaint, Dkt. #175. That motion has been fully briefed. *See* Dkt. #178.

On February 13, 2024, the Court issued a Case Scheduling Order, Dkt. #159, that included the following key dates:

August 8, 2025	Close of Fact Discovery
February 23, 2026	Close of Expert Discovery
April 6, 2026	Deadline to File Dispositive and *Daubert* Motions (with motions noted for June 15, 2026)

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

September 28, 2026 Final Pretrial Conference

October 13, 2026 Bench Trial

As of this filing, the parties have been engaged in fact discovery for approximately seven months. Approximately 14 months remain before the scheduled close of fact discovery.

III. PLAINTIFFS' REPORT ON THE STATUS OF DISCOVERY

A. AMAZON'S DISCOVERY RESPONSES AND PRODUCTIONS

Plaintiffs served their First Set of Requests for Production of Documents on November 14, 2023, and Amazon served its Responses and Objections on December 14, 2023. Plaintiffs served their Second and Third Sets of Requests for Production of Documents on February 1, 2024, and Amazon served its Responses and Objections on March 25, 2024, pursuant to an extension of time agreed to by the parties.

Plaintiffs have significant concerns about the pace of Amazon's document and data productions to date. Although Plaintiffs served requests seeking the reproduction of documents from the *California* Action and Related Cases in November 2023, Amazon has not yet completed its production of those documents.[2] These are documents Amazon has already produced in other matters and could have reproduced here at the push of a button—rather than piecemeal, over the course of more than six months. Amazon has also set unreasonably extended timelines for its production of narrow, targeted collections of certain documents responsive to Plaintiffs' Requests for Production. Amazon estimates that it will not complete most of those document productions until December, and that it will not complete the last of them until

[2] As noted above, Amazon has produced approximately 2,850 documents from its files. Amazon has also produced documents from a small number of third parties that were previously produced in the *California* Action. Amazon has represented that it will soon begin reproductions of custodial documents originally produced in the *California* Action and that it will substantially complete its reproduction of the materials produced to date in the *California* Action and Related Cases by July 1.

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

February 2025—a full year after Plaintiffs served their requests. Those timelines are unreasonable for narrow, targeted document collections, and Plaintiffs are further concerned about what these timelines mean for Amazon's broader productions of documents based on searches of both non-custodial and custodial sources, which will make up the majority of Amazon's document productions in this case. And Amazon has not provided any substantive response to nineteen data-related requests whose responses were due in March, stating for each that it was "continuing to investigate whether relevant, non-privileged materials responsive to this Request exist in the ordinary course, can be collected and produced without undue burden, and can be located after a reasonable search," and that Amazon would "supplement its response once it has more information." Plaintiffs have yet to receive any substantive update on whether Amazon has located responsive data or in what form that data exists and will be produced.[3]

Plaintiffs are also concerned that Amazon is maintaining a number of unfounded relevance objections that would unduly limit the scope of discovery and limit Plaintiffs' ability to fully develop the factual record. For example, Amazon is maintaining relevance objections to several categories of document requests on the grounds that they seek information about Amazon programs and policies that are not specifically named in the Amended Complaint. That is not the standard for relevance in discovery. While the parties are continuing to meet and confer, Plaintiffs provide a sample of those disputes for the Court's awareness:

Documents Amazon Produced in the California Action. As part of their initial document requests in November 2023, Plaintiffs requested that Amazon produce materials from the *California* Action and Related Cases. Because this case and the *California* Action overlap,

[3] Plaintiffs' position is that Amazon has waived any objections it has not yet asserted to these requests.

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

Plaintiffs viewed these requests as a way to jump-start discovery in this action with no burden to Amazon. Amazon has unfortunately chosen to frustrate that approach.

In addition to the slow pace of production, Amazon is withholding *California* documents based on two unjustified relevance objections. First, Amazon refuses to produce documents relating to Amazon's Minimum Margin Agreements with vendors, the Amazon Seller Code of Conduct, and the Amazon Marketplace Fair Pricing Policy, on the grounds that those documents are not relevant to this case. Amazon has also identified six additional categories of documents it is withholding on relevance grounds, and has indicated that it may later carve out further categories of documents from what it has agreed to reproduce from the *California* Action. Amazon's carve-out extends to structured data, where Amazon has refused to produce certain data relating to Amazon's agreements with its vendors. Plaintiffs disagree with Amazon's position that these categories of documents are irrelevant: they inform how Amazon sets prices as a retailer and govern how third-party sellers must set prices on Amazon's marketplace. Both are part of the course of conduct Plaintiffs are challenging. Documents relating to these topics also illustrate Amazon's power over sellers, which is relevant to Plaintiffs' allegations that Amazon has monopoly power in the relevant markets. And there is no burden associated with the production of these documents, given that they have already been produced in another case—to the contrary, Amazon is inflicting on itself the burden of separating out some documents from what it has already produced in the *California* Action, and unnecessarily slowing the pace of document discovery in this case.

Second, Amazon also refuses to produce discovery correspondence from the *California* Action and Related Cases. Plaintiffs have explained that this discovery correspondence is important to understand what Amazon has produced in other cases, because parties often come to

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

agreements or provide context regarding the scope of their document and data productions through correspondence. The production of this correspondence (which Plaintiffs understand Amazon consistently designates as Protective Order material) would at least reduce the need for the parties to engage in repeated back-and-forth questioning about the scope of Amazon's document and data reproductions from the *California* Action and Related Cases, might let Plaintiffs streamline some discovery, and would facilitate coordination between the various cases. Amazon's objection is frankly hard to understand given that the documents in question obviously exist, are non-privileged, and can readily be collected and produced.

Personnel Reviews. Amazon refuses to produce personnel reviews, evaluations, and promotion materials concerning individuals with responsibilities relating to the conduct described in the Amended Complaint, claiming that they are not relevant. These materials are plainly relevant to this case, and Amazon has confirmed they are stored in a central repository. Amazon's personnel reviews are relevant to the merits of the case and to streamlining upcoming custodian negotiations. On the merits, these reviews often identify relevant company goals (for example, regarding Amazon's pricing strategies at issue in this case), a specific employee's acts to further those goals, and Amazon's progress in achieving those goals, with significant discussion of the relevant markets and Amazon's conduct in them. For the parties' upcoming negotiations regarding document custodians, a detailed description of relevant employees' responsibilities would be highly informative.

First-Party Pricing Strategies. Plaintiffs have served discovery requests seeking documents related to how Amazon sets prices for its Retail offers and Amazon's Retail pricing rules, algorithms, and methods. Amazon refuses to produce documents related to any first-party pricing strategies other than its first-party anti-discounting program, *see* Am. Compl. ¶¶ 327-39,

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

Dkt. #170, which Amazon describes as its "competitive price-matching strategy," on the grounds that Plaintiffs are not directly challenging other first-party pricing strategies. However, the proper scope of discovery is not limited to the specific acts and programs pleaded in the Amended Complaint. To the extent Amazon has additional pricing strategies that are similar or related to the anti-discounting program alleged in the Amended Complaint, those pricing strategies may be relevant to understanding Amazon's overall course of anticompetitive and exclusionary conduct. At minimum, documents related to other first-party pricing strategies are relevant to fully understanding the context for Amazon's first-party anti-discounting program, less restrictive alternatives to Amazon's conduct, and potential remedies.

Supply Chain by Amazon. Supply Chain by Amazon is a "fully automated set of supply chain services,"[4] launched late last year, that includes warehousing, fulfillment, and distribution services. It integrates directly with Amazon's Fulfillment by Amazon (FBA) and Multichannel Fulfillment (MCF) programs for sellers and appears to encompass both programs. Amazon does not dispute that both FBA and MCF are centrally relevant to Plaintiffs' fulfillment-related claims but nonetheless refuses to produce documents relating to Supply Chain by Amazon. Amazon argues that those documents are irrelevant because Supply Chain by Amazon is not discussed by name in Plaintiffs' Amended Complaint. Even leaving aside Amazon's incorrect and unfounded position regarding the proper scope of discovery, Plaintiffs have explained that documents relating to Supply Chain by Amazon are relevant to understand the structure, operations, and pricing of Amazon's core FBA fulfillment service and MCF. Such documents are also relevant to understand Amazon's efforts to further entrench its FBA service and thereby deprive rival

[4] *See* Supply Chain by Amazon, https://sell.amazon.com/programs/supply-chain (last visited June 1, 2024).

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

online marketplace service providers and superstores the ability to gain the scale needed to compete meaningfully with Amazon, conduct that is central to Plaintiffs' fulfillment allegations.[5] *See* Am. Compl. ¶¶ 353, 366-96, Dkt. #170.

Buy with Prime. Buy with Prime is a program that allows Amazon sellers to "display the Prime logo and delivery promise on [their] own website,"[6] using Amazon's checkout process and fulfillment infrastructure. Like Supply Chain by Amazon, Buy with Prime integrates directly with Amazon's fulfillment programs FBA and MCF,[7] and is therefore relevant to understanding the structure and operation of those programs and the ways that Amazon's services may limit sellers from seeking out other fulfillment providers, which in turn deprives independent fulfillment providers of an important source of business and scale needed to build out an efficient fulfillment network. Documents relating to Buy with Prime are also relevant to understanding Amazon's claims about customer expectations associated with the Prime badge, given that the program allows sellers to display the Prime badge outside of the Amazon ecosystem. Yet, as

---

[5] Amazon has suggested that fulfillment services encompass virtually all aspects of the supply chain, from warehousing through delivery to the final customer. *See, e.g.*, Mot. to Dismiss at 3, Dkt. #127 (pointing to delivery providers such as UPS, FedEx and the Postal Service in arguing that Amazon has not foreclosed rivals who provide fulfillment services); Amazon's Responses and Objections to Plaintiffs' Second Set of Requests for Production at 8 (defining "Third-Party Logistics Provider" as "any entity other than Amazon that provides services relating to any and all steps involved in (a) transporting and/or facilitating the transportation of products from the point of origin to delivery to a customer, including any intermediary points along the way; and (b) addressing any issues with a product that arise after delivery to a customer."). Amazon's refusal to produce documents related to Supply Chain by Amazon is plainly inconsistent with its own position regarding the scope of fulfillment services.

[6] *See* Buy with Prime, https://sell.amazon.com/programs/buy-with-prime (last visited June 1, 2024).

[7] *See* Supply Chain by Amazon, https://sell.amazon.com/programs/supply-chain?ref_=sdus_bwp_sba ("If a customer places an order on your own website through Buy with Prime . . . we'll deliver through Multi-Channel Fulfillment (MCF).") (last visited June 1, 2024).

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

with Supply Chain by Amazon, Amazon categorically refuses to produce documents relating to this program.[8]

Date Range. Plaintiffs have proposed that, as a default, Amazon should produce documents from January 1, 2014 through the date of collection from each custodian or non-custodial source, provided that date is after March 25, 2024 (when Amazon served responses and objections to Plaintiffs' Second and Third Sets of Requests for Production of Documents). The parties can then address specific requests that involve different timeframes on a case-by-case basis, without separately negotiating a date range for each and every document request.

A default timeframe for document discovery going back to 2014 is necessary and appropriate given that much of the Amazon conduct at issue in this case began in or around 2014. Post-Complaint discovery is warranted given the ongoing nature of Amazon's conduct and changes to Amazon's conduct after the filing of the Complaint. Plaintiffs' proposal to use the date when documents are collected as a default end date for document production reasonably balances Plaintiffs' need for post-Complaint discovery against the burden associated with multiple document collections.

Amazon's current position is that, as a default, it will produce documents for the time period from January 1, 2018 through the filing of the Complaint on September 26, 2023. Amazon has proposed to have further date range discussions "in the context of Request-by-Request negotiations, or, when the parties begin to discuss relevant custodians, custodian-by-

[8] Amazon notes that it has agreed to produce documents relating to Supply Chain by Amazon and Buy with Prime to the extent those documents are responsive to other document requests and are captured by Amazon's search methodology. But this concession means little because Amazon already has an obligation to produce those documents, regardless of Plaintiffs' discovery requests seeking documents related to Supply Chain by Amazon and Buy with Prime.

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

custodian." Plaintiffs do not that believe that approach is warranted or efficient but will continue to meet and confer with Amazon.

Procompetitive Justifications. Finally, Plaintiffs are concerned by Amazon's continued resistance to answering an interrogatory seeking information about any procompetitive justifications Amazon contends are associated with the interrelated conduct challenged in the Amended Complaint. Plaintiffs need information regarding any procompetitive justifications in order to seek and obtain timely discovery regarding those justifications throughout document discovery and depositions. If Amazon unduly delays identification of its claimed procompetitive justifications, that will likely limit Plaintiffs' ability to obtain relevant information regarding those justifications within the existing case schedule.

Amazon's procompetitive justifications for its challenged conduct (if any) are a key aspect of this case under the rule of reason analysis. *Epic Games, Inc. v. Apple, Inc.*, 67 F.4th 946, 985-86 (9th Cir. 2023). If Plaintiffs show that Amazon's conduct is likely anticompetitive, then "the burden shifts back to [Amazon] to 'show a procompetitive rationale for the restraint.'" *Id.* (quoting *NCAA v. Alston*, 594 U.S. 69, 96 (2021)). After any such showing has been made, the burden shifts back to Plaintiffs to show that such "procompetitive efficiencies could be reasonably achieved through less anticompetitive means." *Id.* at 990 (quoting *Alston*, 594 U.S. at 990). If less restrictive alternative means are not established, the court must "balance the [conduct's] anticompetitive harms against its procompetitive benefits." *Id*. at 994; *see also United States v. Microsoft Corp.*, 253 F.3d 34, 58-59 (D.C. Cir. 2001).

Amazon has repeatedly claimed that the conduct Plaintiffs are challenging is procompetitive, including in its motion to dismiss. *See* Motion to Dismiss at 1, Dkt. #127 ("Those practices – the targets of this antitrust Complaint – benefit consumers and are the

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

essence of competition."). Accordingly, Plaintiffs served an interrogatory seeking an identification and description of those procompetitive justifications, including any alternatives considered and an explanation as to why those alternatives were not sufficient.

Amazon maintains two primary objections to the interrogatory. First, Amazon argues that it does not need to need to answer this interrogatory until the close of discovery, which would severely prejudice Plaintiffs' ability to conduct discovery into Amazon's alleged procompetitive justifications. Second, Amazon claims that the interrogatory "includes *at least* but more likely *more than* 108 discrete subparts" because the interrogatory points to paragraphs in the Complaint describing the challenged course of conduct. Both of those objections are unfounded. There is no reason Amazon cannot answer the interrogatory now, and doing so is necessary for the efficient progress of discovery in this case. And Plaintiffs have asked only a single question: what are Amazon's procompetitive justifications, if any, for the challenged course of conduct? *See, e.g.*, *Minnis v. Washington*, No. C11-5600, 2013 WL 1964832, at *2 (W.D. Wash. May 10, 2013) (quoting *Trevino v. ACB American, Inc.*, 232 F.R.D. 612, 614 (N.D. Cal. 2006)) ("Courts generally agree that interrogatory subparts are to be counted as one interrogatory . . . if they are logically or factually subsumed within and necessarily related to the primary question.").

Amazon's most recent position on this interrogatory is unreasonable and incomplete. Amazon "maintain[ed] its position that a response to this interrogatory should follow the end of substantial discovery," which would largely defeat the point of the interrogatory, and was vague about how this interrogatory should be counted for purposes of the 40-interrogatory limit. *See* CMO ¶ 4(a), Dkt. # 161.

B. PLAINTIFFS' DISCOVERY RESPONSES AND PRODUCTIONS

Amazon served its First Set of Requests for Production on November 14, 2023, and Plaintiffs served their respective Responses and Objections on December 14, 2023. After several

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

discussions between the parties, Plaintiffs agreed to conduct a reasonable search of documents within their possession, custody, or control for responsive, non-privileged pre-Complaint documents from and communications with third parties related to Plaintiffs' respective investigations, and to substantially complete production of materials from their respective investigations by May 27, 2024. After the Protective Order was entered on February 13, 2024, and third parties had the opportunity to object to the production of and apply confidentiality designations to their materials under the Protective Order, Plaintiffs prioritized providing Amazon with the largest third-party productions on a rolling basis. Beginning on March 27 and continuing through May 24, Plaintiffs made rolling productions containing over 326,300 documents associated with more than 110 third parties. Plaintiffs also searched the files of approximately 200 custodians and non-custodial sources, and produced responsive documents. Plaintiffs substantially completed their agreed-upon productions of documents on May 24, 2024.

C. THIRD PARTY DISCOVERY

Plaintiffs have served 15 document subpoenas to online retailers, marketplaces, and third-party logistics providers, and will continue to issue additional subpoenas on a rolling basis. Plaintiffs are also conferring with third party subpoena recipients regarding the scope of their responses to Plaintiffs' requests.

Plaintiffs have issued deposition subpoenas to two third parties and are coordinating those depositions with the *California* Action. Plaintiffs are discussing other potential coordinated depositions with California and plaintiffs in certain Related Cases.

The parties have agreed to regular exchanges of information about subpoenas to third parties and third parties' responses and objections. The parties have also agreed to hold joint meet and confers when requested by third parties in order to minimize the burden of discovery for third parties.

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

D. COORDINATION ISSUES

The parties are continuing to discuss a draft protocol for the coordination of depositions between this case, the *California* Action, and certain Related Cases in discovery. Only a limited number of issues remain in dispute, and the parties are meeting and conferring further. Plaintiffs anticipate that parties will have an agreement or a dispute for the Court's consideration soon.

While this issue is not yet ripe for the Court, Plaintiffs believe it is necessary to respond to one issue raised by Amazon below: Amazon's suggestion that the entry of a protocol that differs from the coordination order entered by the *California* court would hinder coordination ignores a provision in the *California* coordination order expressly providing that if "any order" is entered in this case "permitting higher time limits for any Coordinated Depositions, such higher time limits shall apply" in the *California* Action. (Ex. A, ¶ 20.)

IV. AMAZON'S REPORT ON THE STATUS OF DISCOVERY

Plaintiffs' concerns about the pace of discovery are not well-founded given the scope of documents, data, and other information produced to Plaintiffs to date; the breadth and volume of material sought by their 349 Requests for Production and Interrogatories; the guidance Amazon has provided with respect to timing of its productions responsive to those requests; and the parties' many conferrals. As discussed in more detail below, millions of documents and 100 terabytes of data produced by Amazon in the pre-complaint investigations have been deemed produced here. Plaintiffs also have access to the testimony of 46 Amazon witnesses taken in pre-complaint investigations. Plaintiffs served 349 Requests for Production (not counting subparts) on Amazon touching nearly every aspect of the retail business, including subject matters and time periods for which Amazon previously made voluminous productions. Amazon has begun producing documents responsive to Plaintiffs' requests and, as stated in the December status report, anticipates substantially completing production on Plaintiffs' First Set of Requests for

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

Production (30 requests) by July 1. The parties have been conferring on the remaining 319 Requests served by Plaintiffs for the past eight weeks, on a cadence requested by Plaintiffs; because of the sheer volume of requests, there are still more than 150 requests on which Plaintiffs have not yet requested a meet and confer.[9]

Meanwhile, it has taken Plaintiffs six months to produce the primary category of documents that they have agreed to produce, namely, portions of their pre-complaint investigative file that includes materials received from third parties. Plaintiffs made productions on May 24, 2024 that they state substantially complete their agreed productions. Plaintiffs produced 24,000 pages on May 24, and Amazon's review of these productions is ongoing.

With respect to the status of discovery, Amazon states as follows:

A. AMAZON'S STATEMENT REGARDING ITS RESPONSIVE DISCOVERY

1. Plaintiffs Served Voluminous and Expansive Discovery Requests on Amazon

Since November 14, 2023, Plaintiffs have served 349 Requests for Production and one set of Interrogatories. Amazon has served responses and objections to all of Plaintiffs' discovery requests and has begun producing documents. Specifically:

- On November 14, 2023, Plaintiffs served their first set of 30 Requests for Production. Amazon served its Responses and Objections on December 14, 2023.
- On November 14, 2023, Plaintiffs also served their first set of Interrogatories.

[9] Plaintiffs principally use this status report to set forth for the Court the positions they have taken in the ongoing meet and confers. Amazon does not believe that the purpose of this status report is to go through a point-by-point discussion of these (incomplete and misleading) litigation positions, which Plaintiffs do not identify as disputed issues. By way of example, it is not true that Amazon has "categorically" refused to produce documents related to two programs not mentioned in the Complaint, Supply Chain by Amazon and Buy with Prime; to the contrary, even though those programs are not mentioned in the Complaint, Amazon has said it *will* produce documents about those programs to the extent they are discussed in the extensive custodial document production Amazon expects to make about the programs actually alleged in the Complaint. Plaintiffs have issued more than 100 requests related to fulfillment issues alone.

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

Amazon served its Responses and Objections on December 14, 2023.

- On February 1, 2024, Plaintiffs served their second and third sets of Requests for Production, consisting of 319 total requests. Many of these RFPs include multiple subparts and at least 49 of these RFPs request voluminous amounts of data. Amazon served its Responses and Objections to these requests on March 25, 2024.

During the FTC's nearly four-year pre-complaint investigation, Amazon produced more than 1.7 million documents, consisting of nearly 10 million pages, and 100 terabytes of data—all of which Amazon has agreed to deem produced in this case. Plaintiffs took pre-suit testimony of 29 Amazon witnesses that Amazon made available. Plaintiffs also have access to the records produced by Amazon in the California Attorney General's investigation, including transcripts of 28 additional investigative hearings of Amazon witnesses, which included transcripts 17 non-overlapping witnesses, and 88 terabytes of data of the type that they seek here (*e.g.*, offers and transaction data). The subjects and the time period of the pre-complaint discovery overlaps with those of Plaintiffs' discovery requests in this case.

Given the records from these lengthy pre-suit investigations, it would have been entirely reasonable for Plaintiffs to serve tailored Requests for Production aimed primarily at updating prior information. Instead, Plaintiffs issued 349 Requests for Production for documents encompassing nearly all aspects of Amazon's retail business for a period going back over a decade (with some specific periods going back well beyond ten years).[10] Over 250 of those Requests seek "all documents" on a particular topic, and many have several sub-parts. The data requests—styled as 49 requests but constituting over *400* distinct data requests—contemplate *hundreds of terabytes* of data. As Amazon has explained to Plaintiffs, the

[10] Plaintiffs have demanded that all requests cover the time period back to 2014. Amazon believes that the appropriate time period is dependent on the subject of the request, and it has agreed in some cases to produce documents for earlier time periods as requested by Plaintiffs. The issue of the appropriate time period for the requests is best suited to meet and confer discussions.

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

diligence required to understand the Requests and how they connect to the allegations made in Plaintiffs' Complaint, research what documents or data might exist and where, and scope the potential burden of collection and production has been an incredibly arduous process, particularly when the information Plaintiffs seek is not maintained in the form Plaintiffs imagine. Plaintiffs also incorrectly contend that Amazon has not substantively responded to 19 of the data RFPs. For these 19 requests, Amazon asserted specific objections and otherwise agreed to produce data, once it identifies what data exists and in what form, and has been regularly updating the Plaintiffs on its efforts and cooperating in good faith. Although Plaintiffs' Requests identified no particular priorities, Amazon also endeavored to provide guidance to Plaintiffs as to when targeted productions would begin and end so that Plaintiffs could plan and manage their workflow efficiently.

Plaintiffs have also served an interrogatory on Amazon that, although styled as a single interrogatory, demands that Amazon describe and identify justifications, alternative means for achieving justifications, and explanations as to alternative means not chosen, for different types of conduct alleged in *185* different paragraphs of Plaintiffs' Complaint. Amazon submits that this interrogatory is an improper attempt to evade the 40-interrogatory limit set by the Court. If Amazon were to answer this interrogatory as drafted, the effort involved would be immense, as Amazon would need to undertake a separate investigation and prepare a response to answer multi-part questions for any instance of discrete conduct identified in the 185 Complaint paragraphs. Despite its objections, Amazon has met and conferred with Plaintiffs on this topic and made a proposal on May 10, 2024, to which Plaintiffs have not yet responded with any specificity.[11]

2. Amazon Has Engaged in Good Faith Meet and Confer Efforts For Months and Has Been Producing Documents Simultaneously.

[11] Based on a statement in the Joint Status Report, Plaintiffs appear to view Amazon's proposal as "vague." They have not asked any questions about it in responsive correspondence or requested a follow up conferral.

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

Amazon has consistently engaged in good faith discussions with Plaintiffs on their discovery requests. Since January 5, 2024, Amazon has participated in over 26 meet and confer sessions concerning Amazon's responses. Over 15 of these conferrals have occurred in the last 8 weeks. Plaintiffs have conducted the meet and confers by seeking to discuss each individual request, and most of those discussions have required follow up from either or both sides. In this process, Amazon and Plaintiffs have discussed more than 165 of the Requests and Plaintiffs' First Set of Interrogatories, but more than 150 requests have not yet been the subject of any meet and confer. In data-related meet and confers, Plaintiffs have acknowledged that the investigation of decentralized data sources for their voluminous requests takes time, and Amazon has provided updates about its progress and findings as it diligently investigates Plaintiffs' Requests.

Concurrently with these conferrals, Amazon has begun producing additional documents to Plaintiffs on a rolling basis. Amazon has produced over 70,000 pages responsive to these first requests, including targeted collections, reproductions of third-party productions, and documents produced in the private actions. Amazon has also agreed that the more than 1.7 million documents produced by Amazon during Plaintiffs' pre-complaint investigation can be deemed produced in this litigation. Plaintiffs' focus on the volume of new material produced from Amazon's files in the context of the First Set of Requests does not make sense. The volume of that production is largely a function of the targeted sets of documents that were sought by Plaintiffs' First Set of Requests. Plaintiffs' Second and Third Sets of Requests, served nearly three months later, are far broader in scope and production efforts and discussions are ongoing.

With respect to Plaintiffs' First Set of 30 Requests for Production, Amazon still expects to complete substantial production of an agreed collection of documents by July 1, 2024, as it advised the Court in the initial December 15, 2023 JSR. Dkt. 135 at 21. This includes

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

reproduction of materials produced to date in the *California* action, in which discovery is proceeding simultaneously.

With respect to Plaintiffs' Second and Third Sets of Requests for Production (319 requests), the parties are engaged in discussions concerning the process for identifying relevant documents and, in particular, for producing relevant electronic documents and data. Responding to these Requests has been and will be a lengthy and labor-intensive effort on Amazon's part. Amazon is able to respond to only a minority of these requests by collecting identified (albeit voluminous) documents and data sources stored in a variety of different places within the company and dating back years. Amazon has agreed to make rolling productions of those materials starting no later than June 15, July 15, August 15, and September 15, 2024, depending on the request. Amazon has also agreed to make these rolling productions earlier if they are available earlier. Amazon has also explained that the amount of time and effort involved in preparing targeted productions cannot simply be wished away. Amazon has indicated an end date of December 15, 2024 for those rolling productions, but it expects that the majority of these productions will be complete on the anticipated start dates that correspond to the specific requests. For only certain data (not document) requests has Amazon estimated an ending production date of February 2025 due to the breadth of data that Plaintiffs seek.

For the remaining Requests (which constitute the majority of them), e-discovery search methods will be needed to respond. The parties are engaged in discussions concerning the specifics of how these documents will be identified and produced, including the identification of appropriate document custodians and the types of search methods to be used to locate responsive documents of those custodians. Amazon expects that the number of documents that will be collected through these efforts will be in the millions. Amazon also expects that this effort will

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

require the use of technology-assisted review ("TAR") techniques, which involves time and complexity. Plaintiffs want to negotiate what those TAR techniques will be and how they will be used, such as what search terms will be used. After agreement is reached, Amazon will need to "train" the artificial intelligence used in TAR, through iterative searches, to locate potentially relevant documents from terabytes of data. It is customary for the parties to have ongoing discussions about adjustments that may be needed to the TAR process. As part of the TAR process, Amazon will still need to review the identified documents for privilege and responsiveness prior to production.[12]

3. Discovery Should be Allowed to Proceed.

Plaintiffs' section of the JSR sets forth many complaints about the status and pace of discovery, but they identify no ripe disputes requiring a Court ruling. The status of discovery, as discussed above, is simply this: Plaintiffs have served extraordinarily broad and burdensome discovery requests on Amazon; Amazon has begun producing documents but is not finished; Amazon has participated in more than two dozen meet and confer sessions, which have not even covered all of the requests; and it will take considerable time and effort for Amazon to respond to the requests. If and when an actual discovery dispute arises, either side may properly raise it with the Court in accordance with the Local Rules. No Court intervention is needed at this time on the discovery topics identified in Plaintiffs' report.

[12] Plaintiffs also suggest that Amazon "only recently agreed" to begin negotiations regarding custodians and data sources. That presentation is misleading. In mid-May, Plaintiffs requested that the parties agree to a date certain to exchange this information (and other information). Plaintiffs had not previously made this request. Amazon has already provided the other information requested, and the parties had what Amazon believed to be a productive call about the process going forward.

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

B. PLAINTIFFS' RESPONSES TO AMAZON'S REQUESTS FOR PRODUCTION

On November 14, 2023, Amazon served its First Set of Requests for Production to each Plaintiff, and Plaintiffs served Responses and Objections on December 14, 2024. These requests called for, among other subjects, the documents subject to production from Plaintiffs' pre-complaint investigative file (*e.g.*, communications with, testimony of, and materials received from third parties). Notably, portions of their investigative files are the primary materials that Plaintiffs indicated they would agree to produce. These materials should have been stored in central locations and are typically produced at the outset of cases filed by these federal and state agencies. It took Plaintiffs six months to produce them. On May 24, 2024, Plaintiffs produced over 24,000 pages that they represent substantially completes their production of these responsive documents, as well as productions from third parties. Plaintiffs refused to discuss what would or would not be produced from their investigative files prior to their May 24 productions, and so Amazon will need to raise any issues in meet and confers after it completes its review of these productions. Additionally, because of the lack of clarity as to what would be included in the investigative files, the parties also agreed to discuss Plaintiffs' responses to Amazon's other requests after production of the investigative files. Amazon expects those additional requests to be the subject of subsequent meet and confers. Amazon does not request any Court action on this issue at this time.

C. THIRD PARTY DISCOVERY

Both Amazon and Plaintiffs are actively engaged in seeking discovery from non-party witnesses. Since the February 8, 2024 scheduling conference, Amazon has served 8 non-party subpoenas seeking documents from competing retailers. Amazon is in the process of conferring with these retailers to reach agreement on the documents to be produced in response to

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

Amazon's requests. Amazon expects to serve additional non-party document subpoenas on additional third parties, including additional retail competitors and market participants.

Amazon has also conducted third-party discovery in the *California* action, and some of that discovery will also be used in this action. In instances in which Amazon serves subpoenas on third parties in both this action and the *California* action, Amazon is seeking to streamline and coordinate discovery by negotiating both subpoenas together. Amazon has also agreed to produce to Plaintiffs non-party discovery from the *California* action. Amazon has already produced more than 18,000 such non-party documents, and anticipates producing approximately 223,000 additional non-party documents from the *California* action by June 6, 2024.

Plaintiffs have served or are in the process of serving 14 non-party document subpoenas, including the 8 non-parties already served by Amazon. The subpoena topics identified by Plaintiffs substantially overlap with the topics in Amazon's subpoenas, and Amazon is committed to working with Plaintiffs and the non-parties to engage in coordinated conferrals to identify a mutually agreeable set of documents to be produced by the non-parties. Amazon and Plaintiffs have further agreed to exchange written responses and objections received in response to each subpoena so as to allow for further coordination as to non-party discovery.

With regard to third-party depositions, Amazon has informed Plaintiffs of 9 non-party depositions that have been noticed in the *California* action so as to allow for a coordinated deposition of these non-parties. Amazon understands that Plaintiffs intend to participate in 8 of those depositions, and that those depositions will be rescheduled at a time that allows all parties sufficient time to prepare and participate on a coordinated basis. (Two of those depositions are scheduled to take place this month.) Amazon expects that most of the non-party depositions in this case will occur in late 2024 and early 2025.

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

D. AMAZON'S REPORT ON STATUS OF COORDINATION

On November 28, 2023, Amazon proposed to Plaintiffs a draft protocol to allow for the coordinated depositions of Amazon witnesses and non-party witnesses among this case, the related *California* action, and the *Frame-Wilson*, *De Coster*, and *Brown* actions that are also pending before this Court. Plaintiffs did not provide feedback on the draft protocol until March 25, 2024, and the Parties have since conferred (and are continuing to confer) on a coordination protocol. The draft protocol establishes procedures to ensure that the parties in each of the coordinated actions receive notice of and can participate in the depositions, contemplates additional time for coordinated depositions of Amazon witnesses, and establishes a framework for coordinated non-party depositions. A similar coordination order has already been entered by the court in the *California* action (a copy of the *California* order is attached as Exhibit A). The terms of that *California* order have also been adopted in the related case *Mbadiwe v. Amazaon.com, Inc.*, Dkt. # 69, Case No. 1:22-cv-09542 (S.D.N.Y.) (Exhibit B). The *California* protocol includes terms regarding time limits on depositions of Amazon witnesses, in summary:

- Seven hours for depositions of Amazon witnesses in which only the California Attorney General participates. (Ex. A, ¶ 17);
- Ten hours for depositions of Amazon witnesses in which more than one plaintiff participates. (Ex. A, ¶ 18); and
- Fourteen hours for up to eight depositions of Amazon witnesses who did not testify in a pre-complaint investigational hearing. (Ex. A, ¶ 19).

Amazon submits that the *California* coordination order implements a framework that is also appropriate for this case. Plaintiffs are limited to seven hours on the record and have indicated that intend to use this time in their depositions, and the additional time has been agreed to by the California Attorney General and ordered by the Court. Entry of an inconsistent protocol would hinder efforts to coordinate the *California* action with the related cases pending

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

before this Court. Plaintiffs' proposals to date do not merely seek different time limits, they seek a different structure that would be difficult to reconcile with the *California* order (*e.g.,* Plaintiffs seek additional 14-hour depositions but have not recognized the effect of 10-hour depositions provided in the *California* order). Amazon will continue to work with Plaintiffs to reach agreement on a coordination protocol and, if unable to do so, will seek further guidance from the Court concerning deposition coordination.

Amazon has also proposed to plaintiffs in the related private cases (*Frame-Wilson*, *De Coster*, and *Brown*) that the parties in those cases agree to enter a coordination protocol similar to that entered in the *California* action.

V. PENDING MOTIONS

The chart below lists the motions that are pending before the Court:

Motion	Response	Reply	Notice Date
Amazon's Motion to Dismiss for Failure to State a Claim (Dkt #127) (12/8/2023)	Plaintiffs' Response (Dkt #149) (2/6/2024)	Amazon's Reply (Dkt # 178) (3/22/2024)	March 22, 2024
Plaintiffs' Motion to Bifurcate (Dkt #167) (2/29/2024)	Amazon's Response (Dkt #168) (3/11/2024)	Plaintiffs' Reply (Dkt #173) (3/15/2024)	March 15, 2024
Plaintiffs' Motion to Enter an ESI Order (Dkt #181) (3/22/2024)	Amazon's Response (Dkt #191) (4/8/2024)	Plaintiffs' Reply (Dkt #193) (4/12/2024)	April 12, 2024
Plaintiffs' Motion to Compel Production of Documents Related to Spoliation (Dkt #198) (4/25/2024)	Amazon's Response (Dkt #223) (5/12/2024)	Plaintiffs' Reply (Dkt #235) (5/23/2024)	May 23, 2024

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222

Amazon's Motion to Seal (Dkt. # 220) regarding Response to Motion to Compel (Dkt # 223) (5/13/2024)	Plaintiffs' Response (Dkt. # 236) (5/23/2024)		June 7, 2024

Plaintiffs respectfully request that the Court prioritize ruling on the Plaintiffs' Motion to Enter an ESI Order, Dkt. #181, which will facilitate the parties' progress in discovery. The resolution of the parties' disputes regarding the process for search term negotiations would help the parties proceed forward in negotiations without unnecessary delays, and the resolution of the parties' dispute regarding privilege logging would likewise allow Plaintiffs to efficiently continue moving forward with their remaining document production.

Amazon respectfully submits that the pending Motion to Dismiss, Dkt. #127, raises important issues and its resolution may promote efficiency by providing guidance to the parties on relevant case issues.

Dated: June 3, 2024

Respectfully submitted,

s/ Edward H. Takashima

SUSAN A. MUSSER (DC Bar # 1531486)
EDWARD H. TAKASHIMA (DC Bar # 1001641)
LEIGH BARNWELL (NY Reg. # 5440821)
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Tel.: (202) 326-2122 (Musser)
(202) 326-2464 (Takashima)
Email: smusser@ftc.gov
etakashima@ftc.gov
lbarnwell@ftc.gov

Attorneys for Plaintiff Federal Trade Commission

s/ Michael Jo
Michael Jo (admitted *pro hac vice*)
Assistant Attorney General, Antitrust Bureau
New York State Office of the Attorney General
28 Liberty Street
New York, NY 10005
Telephone: (212) 416-6537
Email: Michael.Jo@ag.ny.gov
Counsel for Plaintiff State of New York

s/ Rahul A. Darwar
Rahul A. Darwar (admitted *pro hac vice*)
Assistant Attorney General
Office of the Attorney General of Connecticut
165 Capitol Avenue
Hartford, CT 06016
Telephone: (860) 808-5030
Email: Rahul.Darwar@ct.gov
Counsel for Plaintiff State of Connecticut

s/ Alexandra C. Sosnowski
Alexandra C. Sosnowski (admitted *pro hac vice*)
Assistant Attorney General
Consumer Protection and Antitrust Bureau
New Hampshire Department of Justice
Office of the Attorney General
One Granite Place South
Concord, NH 03301
Telephone: (603) 271-2678
Email: Alexandra.c.sosnowski@doj.nh.gov
Counsel for Plaintiff State of New Hampshire

s/ Caleb J. Smith
Caleb J. Smith (admitted *pro hac vice*)
Assistant Attorney General
Consumer Protection Unit
Office of the Oklahoma Attorney General
15 West 6th Street, Suite 1000
Tulsa, OK 74119
Telephone: (918) 581-2230
Email: caleb.smith@oag.ok.gov
Counsel for Plaintiff State of Oklahoma

s/ Timothy D. Smith
Timothy D. Smith, WSBA No. 44583
Senior Assistant Attorney General
Antitrust and False Claims Unit
Oregon Department of Justice
100 SW Market St
Portland, OR 97201
Telephone: (503) 934-4400
Email: tim.smith@doj.state.or.us
Counsel for Plaintiff State of Oregon

s/ Jennifer A. Thomson
Jennifer A. Thomson (admitted *pro hac vice*)
Senior Deputy Attorney General
Pennsylvania Office of Attorney General
Strawberry Square, 14th Floor
Harrisburg, PA 17120
Telephone: (717) 787-4530
Email: jthomson@attorneygeneral.gov
Counsel for Plaintiff Commonwealth of Pennsylvania

s/ Michael A. Undorf
Michael A. Undorf (admitted *pro hac vice*)
Deputy Attorney General
Delaware Department of Justice
820 N. French St., 5th Floor
Wilmington, DE 19801
Telephone: (302) 683-8816
Email: michael.undorf@delaware.gov
Counsel for Plaintiff State of Delaware

s/ Christina M. Moylan
Christina M. Moylan (admitted *pro hac vice*)
Assistant Attorney General
Chief, Consumer Protection Division
Office of the Maine Attorney General
6 State House Station
Augusta, ME 04333-0006
Telephone: (207) 626-8800
Email: christina.moylan@maine.gov
Counsel for Plaintiff State of Maine

s/ Gary Honick
Gary Honick (admitted *pro hac vice*)
Assistant Attorney General
Deputy Chief, Antitrust Division
Office of the Maryland Attorney General
200 St. Paul Place
Baltimore, MD 21202
Telephone: (410) 576-6474
Email: Ghonick@oag.state.md.us
Counsel for Plaintiff State of Maryland

s/ Michael Mackenzie
Michael Mackenzie (admitted *pro hac vice*)
Deputy Chief, Antitrust Division
Office of the Massachusetts Attorney General
One Ashburton Place, 18th Floor
Boston, MA 02108
Telephone: (617) 963-2369
Email: michael.mackenzie@mass.gov
Counsel for Plaintiff Commonwealth of Massachusetts

s/ Scott A. Mertens
Scott A. Mertens (admitted *pro hac vice*)
Assistant Attorney General
Michigan Department of Attorney General
525 West Ottawa Street
Lansing, MI 48933
Telephone: (517) 335-7622
Email: MertensS@michigan.gov
Counsel for Plaintiff State of Michigan

s/ Zach Biesanz
Zach Biesanz (admitted *pro hac vice*)
Senior Enforcement Counsel
Office of the Minnesota Attorney General
445 Minnesota Street, Suite 1400
Saint Paul, MN 55101
Telephone: (651) 757-1257
Email: zach.biesanz@ag.state.mn.us
Counsel for Plaintiff State of Minnesota

s/ Lucas J. Tucker
Lucas J. Tucker (admitted *pro hac vice*)
Senior Deputy Attorney General
Office of the Nevada Attorney General
100 N. Carson St.
Carson City, NV 89701
Telephone: (775) 684-1100
Email: LTucker@ag.nv.gov
Counsel for Plaintiff State of Nevada

s/ Ana Atta-Alla
Ana Atta-Alla (admitted *pro hac vice*)
Deputy Attorney General
New Jersey Office of the Attorney General
124 Halsey Street, 5th Floor
Newark, NJ 07101
Telephone: (973) 648-3070
Email: Ana.Atta-Alla@law.njoag.gov
Counsel for Plaintiff State of New Jersey

s/ Jeffrey Herrera
Jeffrey Herrera (admitted *pro hac vice*)
Assistant Attorney General
New Mexico Office of the Attorney General
408 Galisteo St.
Santa Fe, NM 87501
Telephone: (505) 490-4878
Email: jherrera@nmag.gov
Counsel for Plaintiff State of New Mexico

s/ Zulma Carrasquillo-Almena
Zulma Carrasquillo (admitted *pro hac vice*)
Assistant Attorney General
Antitrust Division
Puerto Rico Department of Justice
P.O. Box 9020192
San Juan, Puerto Rico 00901-0192
Telephone: (787) 721-2900
Email: zcarrasquillo@justicia.pr.gov
Counsel for Plaintiff Commonwealth of Puerto Rico

s/ Stephen N. Provazza
Stephen N. Provazza (admitted *pro hac vice*)
Special Assistant Attorney General
Chief, Consumer and Economic Justice Unit
Department of the Attorney General
150 South Main Street
Providence, RI 02903
Telephone: (401) 274-4400
Email: sprovazza@riag.ri.gov
Counsel for Plaintiff State of Rhode Island

s/ Sarah L. J. Aceves
Sarah L. J. Aceves (admitted *pro hac vice*)
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609
Telephone: (802) 828-3170
Email: sarah.aceves@vermont.gov
Counsel for Plaintiff State of Vermont

s/ Laura E. McFarlane
Laura E. McFarlane (admitted *pro hac vice*)
Assistant Attorney General
Wisconsin Department of Justice
Post Office Box 7857
Madison, WI 53707-7857
Telephone: (608) 266-8911
Email: mcfarlanele@doj.state.wi.us
Counsel for Plaintiff State of Wisconsin

MORGAN, LEWIS & BOCKIUS LLP

By: *s/ Molly A. Terwilliger*
Patty A. Eakes, WSBA #18888
Molly A. Terwilliger, WSBA #28449
1301 Second Avenue, Suite 2800
Seattle, WA 98101
Phone: (206) 274-6400
Email: patty.eakes@morganlewis.com
molly.terwilliger@morganlewis.com

WILLIAMS & CONNOLLY LLP

Heidi K. Hubbard (*pro hac vice*)
Kevin M. Hodges (*pro hac vice*)
John E. Schmidtlein (*pro hac vice*)
Jonathan B. Pitt (*pro hac vice*)
Carl R. Metz (*pro hac vice*)
Katherine A. Trefz (*pro hac vice*)
Carol J. Pruski (*pro hac vice*)
680 Maine Avenue SW
Washington, DC 20024
Phone: (202) 434-5000
Email: hhubbard@wc.com
khodges@wc.com
jschmidtlein@wc.com
jpitt@wc.com
cmetz@wc.com
ktrefz@wc.com
cpruski@wc.com

COVINGTON & BURLING LLP

Thomas O. Barnett (*pro hac vice*)
Derek Ludwin (*pro hac vice forthcoming*)
Katharine Mitchell-Tombras (*pro hac vice*)
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
Phone: (202) 662-5407
Email: tbarnett@cov.com
dludwin@cov.com
kmitchelltombras@cov.com
Attorneys for Defendant Amazon.com, Inc.

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222