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**STATE OF WASHINGTON  
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

NO.

COMPLANT FOR INJUNCTIVE  
AND OTHER RELIEF UNDER THE  
CONSUMER PROTECTION ACT,  
RCW 19.86

**I. INTRODUCTION**

1. Plaintiff State of Washington, through its Attorney General, brings this antitrust action against Defendant Amazon.com, Inc. for violations of RCW 19.86.030 of the Washington Consumer Protection Act and alleges the following on information and belief:

**II. PARTIES**

2. The Plaintiff is the State of Washington by and through its Attorney General.

3. Defendant Amazon.com, Inc. is a for-profit corporation incorporated and existing under the laws of the State of Delaware that has a principal place of business at 401 Terry Avenue North, Seattle, Washington, 98109, in King County and that is engaged in the business of selling and distributing physical goods across the United States, including within the State of Washington.

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1 **III. JURISDICTION AND VENUE**

2 4. The Attorney General has authority to bring this action and institute these  
3 proceedings for the alleged RCW 19.86.030 Consumer Protection Act violations under  
4 RCW 19.86.080 and RCW 19.86.140.

5 5. This Court has personal jurisdiction over Defendant because it maintains a  
6 principal place of business in the State of Washington and acts giving rise to this action occurred  
7 in the State of Washington.

8 6. Venue is proper in the Seattle Case Assignment Area of King County,  
9 Washington, pursuant to RCW 4.12.020 and 4.12.025, and Court Rule 82 because Defendant  
10 resides and transacts business within King County in Seattle, Washington, and acts giving rise  
11 to this action arose within King County in Seattle, Washington.

12 **IV. FACTUAL ALLEGATIONS**

13 **A. Defendant Conducts Business as an Online Seller of Physical Goods**

14 7. Founded in Washington State, Defendant started off as an online retail store  
15 primarily offering to sell books to consumers.

16 8. In the two-and-a-half plus decades since its founding, Defendant has grown into  
17 one of the largest electronic commerce or “e-commerce” platforms in the world, offering a wide  
18 range of physical products and digital media for sale online to consumers.

19 9. Defendant’s retail arm—Amazon Retail—purchases branded products and sells  
20 them along with its own private label products to consumers through its online retail store.

21 10. Defendant’s online retail store then anchors what appears to consumers in the  
22 United States as an online retail mall in which Amazon Retail and various non-Amazon  
23 third-party retail sellers offer to sell their products to them while they visit a single online  
24 location, [www.amazon.com](http://www.amazon.com), which Defendant operates.

1           11.     In 1999, Amazon Retail accounted for 97% of all e-commerce product sales to  
2 consumers through Defendant’s online retail mall. It grew by 25% annually between 1999 and  
3 2018—climbing from \$1.6 billion in revenue to \$117 billion.

4           12.     Amazon Retail’s growth between 1999 and 2018, however, was dwarfed by the  
5 growth of non-Amazon, third-party sellers that also sold products to consumers through  
6 Defendant’s online retail mall. In 1999, such sales accounted for only 3% of all product sales.  
7 They subsequently grew by 52% annually between 1999 and 2018—climbing to 58% of all  
8 products sold to online consumers through that online retail mall in 2018—and increasing from  
9 \$0.1 billion in revenue to \$160 billion.

10          13.     As Amazon Retail continued to lose its share of e-commerce sales to  
11 non-Amazon third-party sellers inside Defendant’s online retail mall, it sought ways to  
12 increasingly profit from their growing sales in various ways, including through a program  
13 ultimately referred to as the “Sold By Amazon” or “SBA” program.

14     **B.     SBA Facilitated Price Agreements between Defendant and Competing Sellers**

15          14.     Debuting in 2018, Defendant designed SBA as an invitation-only program for  
16 select third-party sellers to enroll specific products that they were already selling directly to  
17 consumers in the United States through [www.amazon.com](http://www.amazon.com).

18          15.     While there are millions of third-party sellers on [www.amazon.com](http://www.amazon.com), Defendant  
19 targeted only a small fraction of them to join the SBA program—those who had an active or  
20 pending trademark for the products that they were selling within the United States. Defendant  
21 observed that these third-party sellers were responsible for the vast majority of worldwide sales  
22 on Defendant’s online retail mall and also paid higher fees associated with these sales than other  
23 third-party sellers using [www.amazon.com](http://www.amazon.com) to sell products to consumers.

24          16.     Amongst this subset of third-party sellers, Defendant further prioritized them for  
25 SBA invitations based upon their potential to increase Defendant’s profits by increasing their  
26

1 prices on www.amazon.com to match the prices of certain other online retailers of these  
2 products.

3 17. Most of these invited third-party sellers were Amazon Retail's direct  
4 competitors before, during, or after SBA—selling one or more of the same or similar products  
5 as Amazon Retail—directly to consumers through their common online retail mall. These  
6 third-party sellers sold products to consumers on www.amazon.com before participating in  
7 SBA through at least the Fulfillment by Amazon program.

8 18. Hundreds of competing third-party sellers accepted Defendant's invitations,  
9 agreed to participate in SBA, and accounted for the vast majority of SBA's total sales revenue.

10 19. Prior to enrolling one or more products in SBA, each of these third-party sellers  
11 priced such products on and off of www.amazon.com using their independent business  
12 judgment at any given point in time.

13 20. While participating in SBA, however, these third-party sellers each agreed to  
14 stop pricing SBA-enrolled products using their independent business judgment and to instead  
15 substitute Amazon Retail's prices for such products.

16 21. In exchange, Defendant agreed to pay each of these third-party sellers at least an  
17 agreed upon minimum net payment for sales of their enrolled products, with the potential for a  
18 further net payment based on sales of their products if the prices increased after enrollment. In  
19 this circumstance, the third-party seller and Defendant would split the net surplus proceeds from  
20 the sale of the SBA-enrolled product amongst themselves. For example, if a third-party seller  
21 and Defendant agreed to a \$20 minimum payment and the enrolled product sold to a consumer  
22 for \$25, the seller would receive the \$20 minimum payment and share in the \$5 surplus, less  
23 fees owed (such as referral or commission, storage, and advertising fees) and withheld sales  
24 taxes.  
25  
26

1 **C. Each Such SBA Agreement Restrained Price Competition**

2 22. SBA decreased competitive online offers for enrolled products. Prices on and  
3 off of www.amazon.com for consumers of most of those products were fixed, raised,  
4 maintained, or stabilized at artificially high levels through price increases, price floors, and/or  
5 discount prevention, requiring consumers to pay more for those products than they otherwise  
6 would have in a competitive market but for SBA.

7 23. Upon SBA enrollment, Defendant suppressed all of the participating third-party  
8 seller's offers to sell that product to consumers outside of the SBA program on  
9 www.amazon.com. This was the case even when the third-party seller kept available inventory  
10 to fulfill SBA and non-SBA offers separate. It was also the case when consumers had already  
11 purchased all available inventory to fulfill SBA offers. For example, while such third-party  
12 sellers kept their available inventory to fulfill Merchant Fulfilled Network (MFN) program  
13 offers on www.amazon.com separate from inventory available to fulfill SBA offers, Defendant  
14 nevertheless suppressed the third-party sellers' MFN offers from consumers' view so they could  
15 not compete with even out-of-stock SBA offers for product sales.

16 24. SBA also increased prices for some enrolled products when Defendant  
17 programmed its pricing algorithm to match the prices that certain other online retailers offer to  
18 consumers.

19 25. When prices of SBA-enrolled products increased, sales of  
20 SBA-enrolled products with whom Defendant had previously competed for online sales  
21 markedly declined. Faced with price increases, consumers sometimes opted to buy Amazon  
22 Retail's products—particularly its private label products. This resulted in Defendant  
23 maximizing its own profits regardless of whether consumers paid a higher price for products  
24 enrolled in SBA or settled for buying Amazon Retail's same or similar product.

25 26. Prices for the vast majority of the remaining products enrolled in SBA stabilized  
26 at artificially high levels. Defendant programmed its pricing algorithm to maintain these

1 third-party seller's pre-enrollment prices as the price floor, meaning that participating sellers  
2 had limited, if any, ability to lower the price of their products without withdrawing the product  
3 from SBA.

4 27. This price maintenance fixed the price artificially high because it was set without  
5 regard to changes that would affect price in a competitive market, such as changes in things like  
6 increasing supply levels and decreasing demand.

7 28. For example, while third-party sellers were once able to offer price discounts on  
8 their products, Defendant subsequently prevented many sellers from continuing to offer  
9 discounts as they saw fit. Third-party sellers then bore the risk of having their products not sell  
10 in a timely manner, or at all, while still paying for things like storage fees of their enrolled  
11 products. Many sellers remained stuck with an artificially high price for their products while  
12 Defendant was able to maximize its own profits.

13 **D. While Defendant Suspended the SBA Program, It Could Resume at any Time.**

14 29. After the State opened an investigation into the contracts entered pursuant to  
15 SBA, Defendant suspended SBA in June 2020—but only in a manner that could be efficiently  
16 and effectively resumed.

17 **V. VIOLATIONS OF THE CONSUMER PROTECTION ACT, RCW 19.86.030**

18 30. Plaintiff realleges and incorporates by reference, as if fully set forth herein, the  
19 allegations in paragraphs, 1-29 above.

20 31. Between 2018 and 2020, Defendant entered into several hundred SBA contracts  
21 with existing third-party sellers on www.amazon.com that competed with Amazon Retail for  
22 online sales to consumers on and off of www.amazon.com.

23 32. These SBA contracts occurred in trade or commerce as defined in  
24 RCW 19.86.010(2) because they concern offering physical goods to consumers in Washington  
25 and selling them throughout the United States on and off of e-commerce platform  
26 www.amazon.com.



1 b. entering into future contracts having similar purpose or effect as the SBA  
2 price fixing contracts between horizontal competitors;

3 3. An award of a civil penalty for each and every violation of RCW 19.86.030  
4 alleged herein as permitted under RCW 19.86.140.

5 4. An award of the State's costs expended in bringing this lawsuit, including  
6 reasonable attorneys' fees, pursuant to RCW 19.86.080.

7 5. An award of post-judgment interest, as provided by law; and

8 6. An award of any other further injunctive, equitable, or other further relief as the  
9 Court may deem just and proper to fully dissipate the effects of the conduct complained of  
10 herein, or which may otherwise seem proper to the Court.

11 DATED this 26th day of January 2022.

12 ROBERT W. FERGUSON  
13 Attorney General

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