

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of Amazon.com, Inc. and Amazon Logistics, Inc., File No. 1923123

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order from Amazon.com, Inc. and Amazon Logistics, Inc. (“Amazon”). The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

Amazon operates Amazon Flex, a gig economy program through which consumers can become “drivers” for Amazon and, using their own vehicles, deliver products and groceries to Amazon customers. Amazon pays drivers for making deliveries, and for some types of deliveries, allows customers to tip the drivers via the app or website used to place the order. Amazon consistently represents to both drivers and customers that it passes on 100% of customer tips to drivers. However, from late 2016 through August 2019, Amazon withheld nearly a third of the tips meant for drivers, about \$61 million in total, despite its representations that it would provide drivers 100% of customer tips. Amazon continued diverting drivers’ tips in this way for over two and a half years despite hundreds of complaints from drivers and critical media reports. Amazon changed its practices only after the FTC issued a Civil Investigative Demand to the company in May 2019.

The Commission’s proposed complaint alleges that Amazon has violated Section 5 of the FTC Act. In particular, the proposed complaint alleges that Amazon misrepresented to both customers and drivers that it would give drivers 100% of customer tips in addition to the pay Amazon offered.

The proposed order includes equitable monetary relief and injunctive provisions to prevent Amazon from engaging in the same or similar acts or practices in the future. Part I of the proposed order prohibits Amazon from misrepresenting to any consumer, including both customers and drivers: (a) the income a driver is likely to earn, (b) the amount Amazon will pay drivers, (c) that Amazon will give drivers customer tips in addition to Amazon’s contribution to drivers’ earnings, (d) the percentage or amount of any customer tip a driver will receive, or (e) that any amount customers pay is a tip. Part II of the proposed order prohibits Amazon from changing the extent to which it uses a driver’s tips toward Amazon’s contribution to the driver’s earnings without first obtaining express informed consent from the driver.

Part III of the proposed order requires Amazon to pay \$61,710,583, the full amount of tips that Amazon improperly withheld from drivers. Part IV of the proposed order requires Amazon to provide sufficient information about drivers to enable the Commission to efficiently administer redress to drivers.

Parts V through VIII of the proposed order are reporting and compliance provisions. Part V requires acknowledgments of the order. Part VI requires Amazon to notify the Commission of changes in corporate status for 10 years and mandates that the company submit an initial

compliance report to the Commission. Part VII requires Amazon to create certain documents relating to its compliance with the order for 10 years and to retain those documents for a 5-year period. Part VIII mandates that the company make available to the Commission information or subsequent compliance reports, as requested.

Finally, Part IX states that the proposed order will remain in effect for 20 years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.