

Congress of the United States

Washington, DC 20515

September 28, 2022

The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chair Khan:

We are writing regarding our concerns with Amazon's proposed \$1.65 billion acquisition of iRobot Corp., and the extent to which this acquisition which could harm consumers and reduce competition and innovation in the home robotics market.¹ We support the Federal Trade Commission's (FTC) decision to review the merger for potential antitrust violations,² and we urge the agency to act to protect consumers and competition. Given Amazon's record of infringing on consumers' privacy, and their ongoing history of anticompetitive mergers to increase their monopoly power, the FTC should use its authority to oppose the Amazon – iRobot transaction.

Amazon's proposed acquisition of iRobot Corp. presents a number of antitrust and consumer-protection concerns, which the FTC should closely examine when determining whether this merger should proceed. We have long urged the agency to use its broad authority to prevent dominant companies like Amazon from using their market power to buy their way out of competing.³ These actions are consistent with Section 7 of the Clayton Act, which prohibits any acquisition whose effect "may be substantially to lessen competition, or to tend to create a monopoly" in "any line of commerce or in any activity affecting commerce."⁴

Concerns about Competition in the Home Robotics Market

Amazon's proposed acquisition of iRobot Corp., which "dominates" the smart vacuum market, with a 75% market share by revenue,⁵ marks the fourth-largest acquisition in Amazon's history.⁶ Amazon previously attempted to compete with iRobot's flagship product, the Roomba vacuum, by introducing its

¹ Bloomberg, "Amazon's iRobot Deal Seen Facing Tough FTC Antitrust Review," Leah Nylen, August 5, 2022, <https://www.bloomberg.com/news/articles/2022-08-05/amazon-s-irobot-deal-seen-facing-tough-ftc-antitrust-review#xj4y7vzkg>.

² Politico, "FTC digs in on Amazon's iRobot deal," Josh Sisco, September 2, 2022, <https://www.politico.com/news/2022/09/02/amazons-ftc-problem-keeps-growing-with-irobot-one-medical-probes-00054749>.

³ Letter from U.S. Senator Elizabeth Warren to Federal Trade Commission Chair Lina Khan, June 29, 2021, <https://www.warren.senate.gov/imo/media/doc/Letter%20to%20FTC%20re%20Amazon-MGM%20Deal.pdf>.

⁴ 15 U.S.C. 18 (emphasis added).

⁵ Bloomberg, "Amazon's iRobot Deal Seen Facing Tough FTC Antitrust Review," Leah Nylen, August 5, 2022, <https://www.bloomberg.com/news/articles/2022-08-05/amazon-s-irobot-deal-seen-facing-tough-ftc-antitrust-review#xj4y7vzkg>.

⁶ Wall Street Journal, "Amazon Buying Roomba Maker iRobot for \$1.7 Billion," Connor Hart, August 5, 2022, <https://www.wsj.com/articles/amazon-buying-roomba-maker-irobot-for-1-7-billion-11659702187>.

own products – the Astro robot, a home robotic product that received a “limited” rollout and a “lackluster” response,⁷ and Terra, which was placed on an indefinite hold in April 2020.⁸

Amazon’s actions are covered by Section 5.3 of FTC’s *Horizontal Merger Guidelines*, which posit that antitrust agencies can consider competition concerns that arise from a “merger between an incumbent and a potential entrant.”⁹ The guidelines note that “the lessening of competition resulting from such a merger is more likely to be substantial, the larger is the market share of the incumbent, the greater is the competitive significance of the potential entrant, and the greater is the competitive threat posed by this potential entrant relative to others.”¹⁰ iRobot is a powerful market incumbent, and Amazon, given its vast resources, history of producing smart vacuums through Terra, and powerful platform, is an extraordinarily significant “potential entrant” into the market: Amazon’s ability to acquire iRobot would cause substantially less competition.

Amazon’s foray into the home appliances has been marked by aggressive acquisitions, buying successful companies and integrating Amazon products further into the home. In 2017 and 2018, Amazon acquired Blink and Ring, the producer of video security doorbells that currently account for approximately 40% of the video doorbells in the United States,¹¹ and in 2019, Amazon acquired the WiFi company Eero for \$97 million.¹² In a 2020 antitrust hearing, the House Judiciary Committee found that Amazon’s purchases, and their investments in the Echo collection of smart speakers, were designed to lock consumers in to the Amazon system and reinforce the company’s dominance in home robotics.¹³ Stacy Mitchell from the Institute for Local Self-Reliance noted that within the home-robotics sphere, Amazon was using data collection and acquisitions to dominate the “smart home [...] a powerful new platform that the Big Tech companies and Amazon in particular see as an opportunity to gain and exercise market power.”¹⁴ By 2021, Amazon Ring crushed its competitors in the smart doorbell industry, selling as many units as its four closest competitors combined.¹⁵

Amazon’s History of Anticompetitive Practices

Rather than compete in a fair marketplace on its own merits, Amazon is following a familiar anticompetitive playbook: leveraging its massive market share and access to capital to buy or suppress popular products. Amazon has a history of using this strategy, coined “Copy-Acquire-Kill,” for rivals off

⁷ NPR, “Amazon is buying Roomba vacuum maker iRobot for \$1.7 billion,” August 5, 2022, <https://www.npr.org/2022/08/05/1115946395/amazon-buying-roomba-irobot>.

⁸ Tech Crunch, “Amazon is buying iRobot for \$1.7B,” Brian Heater, August 5, 2022, <https://techcrunch.com/2022/08/05/amazon-is-buying-irobot-for-1-7b/?guccounter=1>.

⁹ Department of Justice and Federal Trade Commission, “Horizontal Merger Guidelines,” August 19, 2010, <https://www.justice.gov/atr/horizontal-merger-guidelines-08192010>.

¹⁰ *Id.*

¹¹ The Atlantic, “Amazon’s Dangerous New Acquisition,” Ron Knox, August 21, 2022, <https://www.theatlantic.com/ideas/archive/2022/08/amazon-roomba-irobot-acquisition-monopoly/671145/>.

¹² Mashable, “How Amazon’s \$97 million Eero acquisition screwed employees and minted millionaires,” Rachel Kraus, April 5, 2019, <https://mashable.com/article/amazon-eero-wifi-router-sale>.

¹³ Subcommittee on Antitrust, Commercial, and Administrative Law of the Committee on the Judiciary, “Investigation of Competition in Digital Markets,” 2020, https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf?utm_campaign=4493-519.

¹⁴ Bloomberg, “Amazon’s iRobot Deal Seen Facing Tough FTC Antitrust Review,” Leah Nysten, August 5, 2022, <https://www.bloomberg.com/news/articles/2022-08-05/amazon-s-irobot-deal-seen-facing-tough-ftc-antitrust-review#xj4y7vzkg>.

¹⁵ Business Wire, Strategy Analytics: Amazon’s Ring Remained atop the Video Doorbell Market in 2020, Jack Narcotta & Bill Ablondi, May 12, 2021, <https://www.businesswire.com/news/home/20210512005336/en/Strategy-Analytics-Amazons-Ring-Remained-atop-the-Video-Doorbell-Market-in-2020>.

and on its own platform.¹⁶ American Economic Liberties Project’s Sarah Miller argued that by acquiring iRobot, Amazon is “basically taking out their largest competition in a market they want to dominate,” continuing a long-held pattern for the company.¹⁷

In addition to the antitrust concerns presented by the iRobot Corp. acquisition, the FTC should consider Amazon’s record of anticompetitive and exploitative practices, in accordance with Section 7.2 of the *Horizontal Merger Guidelines*, which states that a history of collusion or coordinated interaction in a market will be given “substantial weight” when the DOJ and the FTC assess the likelihood that an acquisition or merger will lead to anticompetitive harms.¹⁸

Past Amazon acquisitions provide a worrisome sign for the future health of the home-robotics market if the iRobot acquisition is successfully completed. Following Amazon’s 2012 acquisition of Kiva Systems, an industrial bot builder, Amazon stopped selling the devices to other manufacturers, instead using them “exclusively to supply its own warehouses.”¹⁹ Nearly a decade later, Amazon has fully leveraged its monopoly power and is “almost universally recognized” as the leader in warehouse and fulfillment robotics space.²⁰

Allegations of Amazon’s anticompetitive practices have also included its use of proprietary data from third-party sellers on its platform to launch its own competing products,²¹ and “exploiting its vast trove of internal data to promote its own merchandise at the expense of other sellers.”²² In a 2019 hearing before the House Judiciary Committee, Representative Pramila Jayapal (D-WA) asked whether Amazon “devote[s] any resources to identifying the most popular brands and products sold using the Amazon interface,” and whether the company tracks then creates products that “directly compete with those most popular brands that are out there?”²³ Despite Amazon’s repeated denial of this use of third-party seller data, credible investigative reporting revealed regular use of this data to manufacture its own competing products.²⁴ A 2018 survey of small business owners found that two thirds believed Amazon was stifling their growth opportunities and “disrupting just about every industry.”²⁵

¹⁶ Washington Post, “Congress has battled airlines, banks, tobacco and baseball. Now it’s preparing to clash with Big Tech,” Tony Room, July 27, 2020, <https://www.washingtonpost.com/technology/2020/07/27/congress-tech-hearing/>

¹⁷ Bloomberg, “Amazon’s iRobot Deal Seen Facing Tough FTC Antitrust Review,” Leah Nylén, August 5, 2022, <https://www.bloomberg.com/news/articles/2022-08-05/amazon-s-irobot-deal-seen-facing-tough-ftc-antitrust-review#xj4y7vzkg>.

¹⁸ Department of Justice and Federal Trade Commission, “Horizontal Merger Guidelines,” August 19, 2010, <https://www.justice.gov/atr/horizontal-merger-guidelines-08192010>.

¹⁹ Bloomberg, “Amazon’s iRobot Deal Seen Facing Tough FTC Antitrust Review,” Leah Nylén, August 5, 2022, <https://www.bloomberg.com/news/articles/2022-08-05/amazon-s-irobot-deal-seen-facing-tough-ftc-antitrust-review#xj4y7vzkg>.

²⁰ Tech Crunch, “Amazon is buying iRobot for \$1.7B,” Brian Heater, August 5, 2022, <https://techcrunch.com/2022/08/05/amazon-is-buying-irobot-for-1-7b/?guccounter=1>.

²¹ Wall Street Journal, “Amazon Scooped Up Data From Its Own Sellers to Launch Competing Products,” Dana Mattioli, April 23, 2020, <https://www.wsj.com/articles/amazon-scooped-up-data-from-its-own-sellers-to-launch-competing-products-11587650015>.

²² Reuters, “Amazon copied products and rigged search results to promote its own brands, documents show,” Aditya Kalra and Steve Stecklow, October 13, 2021, <https://www.reuters.com/investigates/special-report/amazon-india-rigging/>.

²³ House Committee on the Judiciary, Subcommittee on Antitrust, Commercial, and Administrative Law, Hearing, “Online Platforms and Market Power, Part 2: Innovation and Entrepreneurship,” <https://www.govinfo.gov/content/pkg/CHRG-116hhrg39901/pdf/CHRG-116hhrg39901.pdf>.

²⁴ Wall Street Journal, “Amazon Scooped up Data from Its Own Sellers to Launch Competing Products,” Dana Mattioli, April 23, 2020, <https://www.wsj.com/articles/amazon-scooped-up-data-from-its-own-sellers-to-launch-competing-products-11587650015>.

²⁵ USA Today, “Don’t let Amazon swallow your small business,” Rhonda Abrams, May 9, 2018, <https://www.usatoday.com/story/money/columnist/abrams/2018/05/09/small-business-surviving-amazon/592950002/>.

Amazon has also repeatedly come under fire for its treatment of workers, often leveraging its monopoly and monopsony power to worsen bargaining positions and employment conditions for its workers.²⁶

The FTC, when evaluating the potential market and consumer effects of the Amazon-iRobot merger, should closely consider Amazon's history of monopoly and monopsony power and whether the iRobot acquisition would open up a new market to Amazon's abuses.

Data Privacy Concerns Associated with Amazon's iRobot Acquisition

In addition to antitrust concerns, Amazon's acquisition of iRobot would increase its growing surveillance powers. As early as 2017, iRobot was moving into data collection, using mapping technology to improve its service and appeal to Big Tech companies even as data-privacy advocates warned against the move.²⁷ Amazon's acquisition of iRobot would give the company access to the inside of homes through Roomba's mapping technology, building on the access it bought with the Ring and Blink purchases in 2017 and 2018 and effectively giving Amazon "eyes and ears" inside the home – the stated goal of the company since at least 2017.²⁸

Amazon has failed to protect consumers and consumer privacy as its data-collection power grows, with reports finding that Amazon's voice assistant Alexa frequently listens and records to consumers, even when its "wake word" is not said.²⁹ Amazon's video doorbell company, Ring, has partnerships with over 600 law enforcement agencies, and was "quietly building a nationwide surveillance network through police partnerships, and embedding itself into the functions of law enforcement."³⁰

These data-privacy and surveillance policies are also embedded in Amazon's anticompetitive practices. Amazon has repeatedly used data collection to crowd out competition and further establish its dominance with consumers. Public Citizen's Robert Weissman noted that Amazon's data collection processes are giving the company "more intimate details of our lives to gain unfair market advantage and sell us more stuff."³¹ Amazon's data collection, which would include information about "what you're reading, the TV shows you have left incomplete, what's on your shopping wish list, what kind of questions you trouble Alexa with on a daily basis, who your favorite music artist is, and what the view from your porch looks like,"³² locks in consumers and uses information from Amazon's acquisitions like Ring, Blink, and potentially iRobot to increase the time and monetary cost of using third-party services and make it impossible for consumers to "justify the cost of switching."³³

²⁶ NBC News, "Fired, interrogated, disciplined: Amazon warehouse organizers allege year of retaliation," Olivia Solon and April Glaser, March 30, 2021, <https://www.nbcnews.com/business/business-news/fired-interrogated-disciplined-amazon-warehouse-organizers-allege-year-retaliation-n1262367>.

²⁷ Reuters, "Roomba vacuum maker iRobot betting big on the 'smart' home," Jan Wolfe, July 24, 2017, <https://www.reuters.com/article/us-irobot-strategy-idUKKBN1A91A5>.

²⁸ Subcommittee on Antitrust, Commercial, and Administrative Law of the Committee on the Judiciary, "Investigation of Competition in Digital Markets," 2020, https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf?utm_campaign=4493-519.

²⁹ New York Times, "Amazon's Alexa Never Stops Listening to You. Should You Worry?" Grant Clauser, August 8, 2019, <https://www.nytimes.com/wirecutter/blog/amazons-alexa-never-stops-listening-to-you/>.

³⁰ Vice, "'FUCK CRIME:' Inside Ring's Quest to Become Law Enforcement's Best Friend," Caroline Haskins, December 4, 2019, <https://www.vice.com/en/article/bjw9e8/inside-rings-quest-to-become-law-enforcements-best-friend>.

³¹ NPR, "Amazon is buying Roomba vacuum maker iRobot for \$1.7 billion," August 5, 2022, <https://www.npr.org/2022/08/05/1115946395/amazon-buying-roomba-irobot>.

³² Digital Trends, "Will Amazon's iRobot purchase turn your Roomba into a spy?," Nadeem Sarwar, August 8, 2022, <https://www.digitaltrends.com/home/amazon-acquire-roomba-maker-irobot-privacy-concerns-history-maret-bad-news/>.

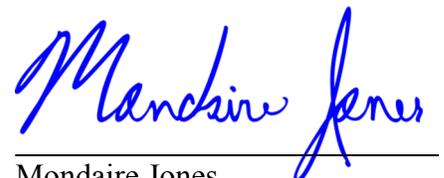
Conclusion

Given our concerns with Amazon’s anticompetitive policies that put consumers and their privacy at risk, we urge the FTC to oppose the proposed Amazon – iRobot acquisition. Amazon’s anticompetitive practices stifle innovation and harm consumers, workers, small businesses, and the economy as a whole. The FTC should use its authority under the Clayton Act to prevent the company from further violating our competition laws.

Thank you for your attention to this matter.

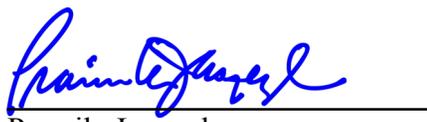
Sincerely,


Elizabeth Warren
United States Senator


Mondaire Jones
Member of Congress


Katie Porter
Member of Congress


Mark Pocan
Member of Congress


Pramila Jayapal
Member of Congress


Jesús G. "Chuy" García
Member of Congress

³³ Bloomberg, “Amazon’s iRobot Deal Seen Facing Tough FTC Antitrust Review,” Leah Nysten, August 5, 2022, <https://www.bloomberg.com/news/articles/2022-08-05/amazon-s-irobot-deal-seen-facing-tough-ftc-antitrust-review#xj4y7vzkg>.