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August 12, 2019

Jeffrey Bezos, Chairman, President, and CEO
Amazon.com Inc.
1200 12th Ave. South, Suite 1200
Seattle, WA 98144

Dear Mr. Bezos:

We write to express our concerns about the “Amazon’s Choice” badge and whether it deceives consumers into purchasing products of inferior quality. Specifically, we request answers about the process Amazon undertakes when determining which products on the Amazon marketplace receive the badge.

As you know, when a search for an item such as dish soap on the Amazon marketplace yields over 20,000 products, consumers look for distinctive product features to help narrow the extensive search results. Your customers reasonably rely on the “Amazon’s Choice” badge to guide their final purchasing decisions. In the minds of some consumers, the “Amazon’s Choice” badge is a material representation of Amazon’s recommendations. As a customer told *BuzzFeed*, “I took the ‘Amazon’s Choice’ label as an endorsement by Amazon.”¹ One customer review cited by *BuzzFeed* revealed that the customer purchased a product specifically because it was listed as “Amazon’s Choice.”² According to a study by OC&C Strategy Consultants, the products that attain the “Amazon’s Choice” badge see a threefold increase in sales, whereas the products that lose the “Amazon’s Choice” designation experience a 30% reduction in sales.³ Between February and May of 2018, there were nearly two million searches on Amazon containing “Amazon’s Choice” as a search key term.⁴

Yet, the badge may be misleading consumers into thinking the products that receive this distinction are the best available products. In fact, several “Amazon’s Choice” products are reported to be defective or poorly manufactured. For example, customer reviews of an infant thermometer listed as “Amazon’s Choice” state that the thermometer does not accurately measure temperature.⁵ Another review stated that the thermometer was “good for adding to your baby registry,” despite the product’s instructions to “not use on newborns.”⁶ What makes this

¹ <https://www.buzzfeednews.com/article/nicolenguyen/amazons-choice-bad-products>

² *Id.*

³ <https://www.pnewswire.com/news-releases/voice-shopping-set-to-jump-to-40-billion-by-2022-rising-from-2-billion-today-300605596.html>

⁴ <https://www.onespace.com/blog/2018/05/what-is-amazons-choice-what-does-it-mean-brands/>

⁵ <https://www.buzzfeednews.com/article/nicolenguyen/amazons-choice-bad-products>

⁶ <https://www.buzzfeednews.com/article/nicolenguyen/amazons-choice-bad-products>

even more concerning, is Amazon refusal to reveal the underlying process for the “Amazon’s Choice” badge.⁷

Amazon bears the responsibility of providing its customers with accurate information to ensure they can make informed purchasing decisions. Unfortunately, Amazon has failed to fulfill this responsibility with its use of the “Amazon’s Choice” badge. We are concerned the badge is assigned in an arbitrary manner, or worse, based on fraudulent product reviews. While, we recognize that Amazon has taken actions in the past to combat fraudulent reviews⁸--the problem persists⁹--and Amazon may be exacerbating the problem by actively promoting products with fraudulent reviews. The dearth of information on how Amazon assigns the badge has also led us to question whether Amazon is using the badge to promote its own products over competitors’ products, potentially disadvantaging smaller sellers on the platform.

In light of these concerns, we ask that Amazon provide responses to the following:

1. Provide a detailed explanation of the process Amazon undertakes to determine which products receive the “Amazon’s Choice” badge.
 - a. Does Amazon use an algorithm to make this decision? If so, do Amazon employees verify the algorithm’s results before publicly assigning the badge to a certain product?
 - b. Do Amazon employees personally review the products that receive the badge to ensure they meet a certain quality threshold?
2. What metrics does Amazon take into consideration when making its determination?
 - a. Does Amazon take into account a product’s reviews when assigning the “Amazon’s Choice” badge? If so, how does Amazon ensure that it is not basing its determination on fraudulent reviews?
 - b. What steps has Amazon taken recently to remove fraudulent reviews from its platform?
 - c. How does Amazon penalize the sellers and reviewers that engage in this fraudulent practice?
3. Amazon has described “Amazon’s Choice” as “highly rated, well-priced products available to ship immediately.” How does Amazon define “highly rated”? How does Amazon define “well-priced”?
4. Describe the efforts undertaken by Amazon to combat the practice of review recycling?¹⁰
5. Are sellers on Amazon able to apply, or pay, to receive the “Amazon’s Choice” badge?
 - a. If no, does Amazon receive financial compensation in any other form from the sellers of products that receive the “Amazon’s Choice” designation?

⁷ <https://www.cnet.com/news/do-humans-choose-what-products-get-amazons-choice/>;
<https://blogs.wsj.com/digits/2015/05/15/amazon-to-anoint-choice-products-sold-through-its-echo-speaker/>

⁸ <https://www.reuters.com/article/us-amazon-com-lawsuit-fake-reviews-idUSKBN0N02LP20150410>

⁹ https://www.wsj.com/articles/dont-just-buy-now-when-shopping-on-amazon-you-need-to-pay-attention-11553592600#comments_sector

¹⁰ The practice of taking an existing product page and updating the photo and description to show a different product. “By retaining all the existing reviews, the new product looks more tested and legitimate to shoppers.” (<https://www.buzzfeednews.com/article/nicolenguyen/amazon-review-reuse-fraud>)

6. Is the "Amazon's Choice" badge specifically tailored to each buyer? Does Amazon take into consideration a buyer's browsing and purchasing history to determine which products will be assigned the "Amazon's Choice" badge in that buyer's search results?

We look forward to receiving your answers by September 16, 2019. Thank you for your prompt attention to this important issue.

Sincerely,

A handwritten signature in blue ink that reads "Robert Menendez". The signature is written in a cursive style with a large initial "R" and a long, sweeping underline.

Robert Menendez

United States Senator

A handwritten signature in blue ink that reads "Richard Blumenthal". The signature is written in a cursive style with a large initial "R" and a long, sweeping underline.

Richard Blumenthal

United States Senator