

United States Senate

WASHINGTON, DC 20510

June 5, 2024

Andy Jassy
Chief Executive Officer
Amazon.com, Inc.
410 Terry Ave. North
Seattle, WA 98109-5210

Dear Mr. Jassy,

We are writing in regard to Amazon's February 9th, 2024 letter responding to our concerns with the mistreatment of workers who are part of Amazon's Delivery Service Partner (DSP) Program. Amazon's letter included answers that appear to be self-contradictory and at odds with publicly available data and reporting. It also included statements that are not responsive to the questions asked.

Unfortunately, the company's response to our letter follows a familiar pattern of Amazon providing evasive and non-specific answers to questions from Congress and gives little if any new information on the DSP Program. Previous inquiries – much like ours – have been met with Amazon's refusal to share important information on the company's operations.¹ As we noted in our initial letter, Amazon is facing allegations of flagrant violations of the National Labor Relations Act. As members of Congress, we have the responsibility to ensure that Amazon is working to address shortcomings in the DSP program and placing the utmost importance on workers' rights and safety.

Accordingly, we are requesting additional information regarding Amazon's DSP Program as well as further clarification of the answers and other statements in your response. Below, we have outlined areas of particular concern. We ask that you provide a response, with individual answers to each question, no later than July 5th, 2024:

Joint-employer status

In your response to question one from our January 10th letter, Amazon's assertion that it does not act as an employer for DSP employees contradicts evidence indicating its considerable control over workers' employment conditions. Investigations by the Department of Labor's Wage and Hour Division into Inpax/Inpax LLC and Colonial Logistics LLC² have revealed Amazon's influence and control over DSP employees, suggesting that a joint employment relationship exists. Moreover, Amazon's use of AI-powered surveillance cameras in delivery vans and its mandate that DSP drivers in the U.S. sign biometric consent forms³ under threat of job loss

¹ <https://www.murphy.senate.gov/newsroom/press-releases/murphy-its-time-for-amazon-to-do-the-right-thing-and-take-responsibility-for-its-delivery-drivers>

² Inpax, Case ID: 1876073 (May 11, 2017); Colonial Logistics LLC, Case ID: 1871549 (Mar. 25, 2019), Department of Labor, Wage and Hour Division.

³ See Vincent, James. "Amazon Delivery Drivers Have to Consent to AI Surveillance in Their Vans or Lose Their Jobs." The Verge, The Verge, 24 Mar. 2021, www.theverge.com/2021/3/24/22347945/amazon-delivery-drivers-ai-surveillance-cameras-vans-consent-form.; O'Donovan, Caroline, and Ken Bensinger. "Amazon's Next-Day Delivery Has Brought Chaos And Carnage To America's Streets — But The World's Biggest Retailer Has A

further demonstrate the control the company has over individual DSP drivers.

Revelations from these investigations and reporting on Amazon's surveillance practices underscore the depth of the company's involvement in its DSPs' operations, challenging the company's stance on its relationship with DSP employees. Given this evidence, it seems clear that a joint employer relationship exists. Accordingly, we request answers to the following questions:

1. Do Amazon's DSP program documents govern and impose restrictions on the hiring process for DSP employees?
2. Does Amazon specify any employment standards or requirements that DSPs must meet before hiring an individual? Can Amazon reject a candidate seeking employment with a DSP?
3. Has Amazon ever disciplined drivers or directed DSP owners or managers to discipline drivers based on work performance metrics, such as the number of packages delivered or returned by a driver, or adherence to the delivery route specified by Amazon software?
4. Given Amazon's claim that it does not employ DSP employees, how is it possible for Amazon to ensure these high standards in health, safety, and compliance within DSP operations without exerting control over the working conditions of DSP employees that concern health and safety matters?
5. Does Amazon require, suggest, or otherwise recommend that its DSPs enter into forced arbitration contracts with their direct employees so as to minimize Amazon's own exposure as a joint employer for labor standards violations?

DOT authority and veracity of Amazon DSP safety/reporting data

In response to question three, Amazon stated that DSPs each have their own DOT number, but also that "when DSPs use commercial motor vehicles to provide service to Amazon, they operate those vehicles under Amazon's DOT number."

It is generally not required that a carrier operates with two DOT numbers, and though there may be reasons for doing so, operating under two DOT numbers may provide opportunities to distort or otherwise mask safety data. In response to question 12, Amazon provided internal data suggesting that accident rates have decreased and fall below the industry average. These responses raise additional questions about Amazon's safety and reporting data. We therefore ask you to provide additional information by responding to the following questions:

1. When a driver has a reportable incident, is that incident reported in the Safety Management System profile connected to the DOT number associated with Amazon, or the DSP?

System To Escape The Blame." Buzz Feed News, 31 Aug. 2019,
www.buzzfeednews.com/article/carolineodonovan/amazon-next-day-delivery-deaths.

- a. If the incident is reported under the individual DSP's number, please describe how the Federal Motor Carrier Safety Administration (FMCSA) could analyze the safety of the totality of all DSP operations and how Amazon could assist the agency in doing so.
 - b. If the incident is reported under Amazon's number, does Amazon contend that all reportable safety incidents and inspection data for its DSPs are represented under the SMS profile associated with DOT #2881058?
2. Amazon claims not to possess copies of OSHA 300 or 300A data for DSPs yet claims that injury rates for drivers employed by DSPs are 10% better than industry average. What data is Amazon referring to when he claims that Amazon has an industry rate that is 10% better than the industry average? And does this data include all DSPs?

No-poaching concerns

In response to question two, which requests that Amazon provide its justifications for the requirement that several DSPs sign non-poaching agreements, Amazon stated that DSPs have never been required to sign non-poaching agreements, and that Amazon prohibits efforts that restrict drivers' ability to choose their employer. However, this answer contradicts first-hand accounts from several DSPs and DSP drivers. We request that you clarify whether or not any DSP drivers have been required to sign non-poaching agreements by answering the following questions:

1. Does Amazon currently have, or has it ever included a "no-poach agreement" or similar provision in any policy, handbook, rule, guidance, or agreement (whether as a stand-alone or embedded in other documents) that it has shared with DSPs?
2. Does Amazon currently have or has it ever had any policy, handbook, rule, guidance, agreement (whether as a stand-alone or embedded in other documents), or understanding (whether formal or informal) with or directed to DSPs that purports to have or has the effect of:
 - a. Restraining, impeding, discouraging, or otherwise interfering directly or indirectly with the mobility of DSP drivers, including the ability of a DSP driver that is employed by one DSP to seek and obtain employment from another DSP?
 - b. Restraining, impeding, discouraging, or otherwise interfering directly or indirectly with any DSP's ability to recruit or hire a DSP driver who is currently employed by another DSP?

We look forward to your attention to this request and ask that you provide responses to the questions specified in this letter by no later than July 5th, 2024 Your response will inform ongoing discussions between the signatories of this letter, and the oversight staff of the Senate's Health, Education, Labor and Pensions Committee, and will help us determine whether additional oversight is required to receive answers to these serious questions of public concern.

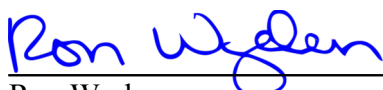
Sincerely,



Christopher S. Murphy
United States Senator



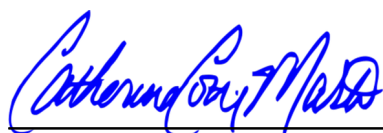
Bernard Sanders
United States Senator



Ron Wyden
United States Senator



Peter Welch
United States Senator



Catherine Cortez Masto
United States Senator



Roger Marshall, M.D.
United States Senator



Sheldon Whitehouse
United States Senator



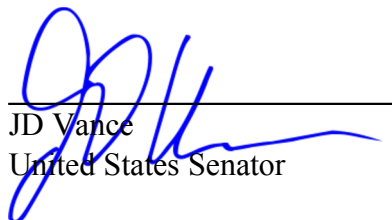
Raphael G. Butler
United States Senator



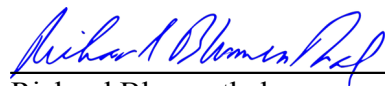
Jeffrey A. Merkley
United States Senator



Debbie Stabenow
United States Senator



JD Vance
United States Senator



Richard Blumenthal
United States Senator



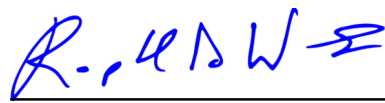
Jon Ossoff
United States Senator



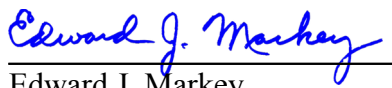
Martin Heinrich
United States Senator




Mazie K. Hirono
United States Senator



Raphael Warnock
United States Senator




Edward J. Markey
United States Senator



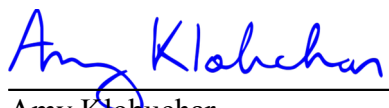
Elizabeth Warren
United States Senator



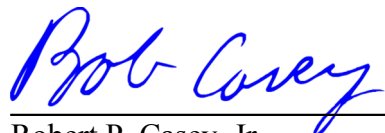
Sherrod Brown
United States Senator



Chris Van Hollen
United States Senator



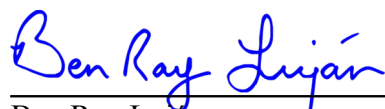
Amy Klobuchar
United States Senator



Robert P. Casey, Jr.
United States Senator



Tammy Baldwin
United States Senator



Ben Ray Lujan
United States Senator



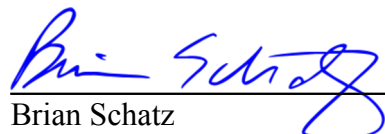
Benjamin L. Cardin
United States Senator



Tina Smith
United States Senator



Jacky Rosen
United States Senator



Brian Schatz
United States Senator



Gary C. Peters
United States Senator



Jack Reed
United States Senator



Cory A. Booker
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Tammy Duckworth
United States Senator



Richard J. Durbin
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Josh Hawley
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