



July 7, 2022

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U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

RE: Request for an investigation of Amazon.com, Inc.’s false and misleading health and safety disclosures.

The Strategic Organizing Center (“SOC”) requests that the Securities and Exchange Commission (“SEC”) investigate and take action against Amazon.com, Inc. (“Amazon”) based on its repeated false and misleading statements concerning the company’s health and safety performance in violation of Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 10b-5 promulgated thereunder and Section 17(a)(2) of the Securities Act of 1933 (the “Securities Act”). Our examination of Amazon’s public statements reveals that:

1. In CEO Andy Jassy’s 2021 letter to Amazon shareholders, and in other public communications, Amazon has repeatedly made false and misleading statements about its own injury rates in its warehouse and delivery facilities and how these compare to industry peers, ultimately in support of the false claim that Amazon is “about average” in this respect.
2. While Amazon’s health and safety record has been the subject of independent investigative reports over the last four years, by claiming that Amazon’s injury rates are “sometimes misunderstood” and falsely claiming that independent investigative reports like SOC’s are “not really accurate,” Andy Jassy intentionally and falsely positioned Amazon’s own cherry-picked and misleading analysis of injury data as the most timely and accurate.
3. A reasonable investor would not be able to recognize the specific falsehoods and misleading statements made by Amazon concerning its health and safety performance, since the necessary background data are only available through a time-consuming analysis of injury data Amazon submits to the Occupational Safety and Health Administration (OSHA).
4. Amazon’s injury rates at its facilities and how they compare to industry peers are material facts to investors because high injury rates are directly linked to the way Amazon executes its business model of providing fast and free shipping, in which the company uses technology, production quotas and discipline to require workers to move at a dangerously fast work pace.

As a result of these false and misleading assertions, reasonable investors will necessarily come away with an inaccurate impression of the material risks that Amazon’s practices pose to the company’s current business model and business plans, particularly those related to further shortening delivery times. For instance, the fact that (as detailed below) Amazon workers experience injuries at much higher rates than

the relevant industry averages have and may continue to generate enforcement actions by regulators encourage new legislation that subjects Amazon to material risks. These risks may include requiring Amazon to implement different and more costly business practices to expand same-day delivery. Moreover, these false and misleading statements may cause reasonable investors—and, in the case of BlackRock, apparently *did* cause a highly sophisticated institutional investor—to oppose shareholder resolutions seeking greater disclosure concerning the company’s health and safety practices, undermining the effectiveness of the shareholder franchise in holding executives and directors accountable.¹

The Strategic Organizing Center

The Strategic Organizing Center (SOC) is a democratic coalition of three labor unions: Service Employees International Union (SEIU), Communications Workers of America (CWA) and United Farmworkers of America (UFW). Together, SOC-affiliated unions represent more than 3 million workers. Through cutting-edge research and innovative campaigns, the SOC advocates for both workers and consumers across a wide range of industries, including food service, transportation and logistics, communications, healthcare and more. Our work is anchored by a belief in equitable, safe workplaces and strong protections for all Americans against unfair business practices.

Background on Amazon

Amazon.com, Inc. engages in the sale of a wide range of products and services to customers. The products offered through the company’s website include merchandise and content it has purchased for resale and products offered by third-party sellers. The company also manufactures and sells electronic devices and produces media content. The company also offers other services, such as computer storage and database offerings, fulfillment, advertising, publishing and digital content subscriptions.

Legal Authority

Rule 10b-5, promulgated under Section 10(b) of the Exchange Act, makes it unlawful for any person “[t]o make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading . . . in connection with the purchase or sale of any security.”² This applies to any information released to the public by the issuer and its subsidiaries.³ Section 17(a)(2) of the Securities Act makes it unlawful for any person to “obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.”⁴

Amazon’s Misleading Statements

Amazon has repeatedly made false or misleading statements regarding the injury rates at its facilities and how these rates compare to its industry peers by cherry-picking and distorting data to create the illusion that Amazon’s business model is less dangerous than it is in reality, which facts would be material to investors.

¹ BlackRock, Vote Bulletin: Amazon.com, Inc. at 5 (May 2022), <https://www.blackrock.com/corporate/literature/press-release/vote-bulletin-amazon-may-2022.pdf>.

² 17 CFR § 240.10b-5 (“Rule 10b-5”).

³ Securities and Exchange Commission, Existing Regulatory Protections Unchanged by Either H.R. 3606 or S. 1933, <https://www.sec.gov/info/smallbus/acsec/ongoinginvestorprotections.pdf>.

⁴ 15 USC § 77q(a)(2).

On April 14, 2022, in his most recent annual letter to shareholders posted on the company’s website and also submitted as an exhibit to a Form 8-K filed with the SEC the same day, Amazon CEO Andy Jassy wrote:

“Our injury rates are sometimes misunderstood. We have operations jobs that fit both the ‘warehousing’ and ‘courier and delivery’ categories. In the last U.S. public numbers, our recordable incident rates were a little higher than the average of our warehousing peers (6.4 vs. 5.5), and a little lower than the average of our courier and delivery peers (7.6 vs. 9.1). This makes us about average relative to peers, but we don’t seek to be average. We want to be best in class.”⁵

Both the figures for Amazon and for “warehousing peers” and “delivery peers” cited by Jassy appear to have been taken from a report titled *Delivered With Care*, which Amazon posted to its website in January 2022.⁶ Amazon also cited figures from this same report in its opposition statements to two shareholder proposals asking for greater disclosure of health and safety data that were printed in Amazon’s definitive proxy statements dated April 14, 2022, and voted on at the company’s 2022 annual meeting.⁷

The CEO’s 2021 letter to shareholders contains several clear falsehoods and misleading statements.

First, Jassy’s letter uses outdated injury data from 2020 that misleads shareholders about the level of injuries at Amazon. Amazon is required by federal law to track injuries in real time, and to report summary injury data to OSHA each year. Although Jassy may have relied on Amazon’s January 2022 report, by the time he wrote his letter to shareholders in April 2022, Amazon already had reported its 2021 injury data to OSHA. These data were released by OSHA to the public in April 2022, prior to the publication of Jassy’s letter.⁸ By reporting 2020 injury data to shareholders in 2022, Jassy avoided disclosing, and thus omitted, the fact that Amazon’s injury rates increased 20 percent from 2020 to 2021. At the same time, the company was publicly claiming that its safety record was improving, and it was using this purported improvement as a rationale to oppose further disclosure requested by shareholders.⁹ SOC’s research suggests that Amazon’s overall warehouse injury rate in 2020 was substantially lower than in prior years, likely as a result of Amazon temporarily relaxing some production quotas for a time during the COVID-19 pandemic.¹⁰ After Amazon reinstated its production quotas in late 2020, injury rates in 2021 increased by 20 percent, undermining the company’s claims that it was making sustained

⁵ Amazon Current Report filed April 14, 2022 on Form 8-K, at Exhibit 99.1, https://www.sec.gov/Archives/edgar/data/0001018724/000110465922045579/tm226241d3_ex99-1.htm; Andy Jassy, 2021 Letter to Shareholders, Amazon (Apr. 14, 2022), <https://www.aboutamazon.com/news/company-news/2021-letter-to-shareholders>.

⁶ <https://safety.aboutamazon.com/delivered-with-care>; Reuters, *Amazon discloses staff injury rates showing where it is worse or better than peers* (Jan. 24, 2022), <https://www.reuters.com/business/retail-consumer/amazon-discloses-staff-injury-rates-showing-where-it-is-worse-or-better-than-2022-01-24/>; Anna Kramer, *Amazon’s warehouse injury rate spiked 20% in 2021*, Protocol (Apr. 12, 2022), <https://www.protocol.com/bulletins/amazon-warehouse-injuries-spiking>.

⁷ Amazon 2022 Proxy Statement filed April 14, 2022 on Form DEF 14A., at68, https://www.sec.gov/Archives/edgar/data/1018724/000110465922045572/tm223357-5_def14a.htm#SHPR

⁸ Occupational Safety and Health Admin., OSHA initiates enforcement program to identify employers failing to submit injury, illness data (Apr. 5, 2022), <https://www.osha.gov/news/newsreleases/trade/04052022>.

⁹ Strategic Organizing Center, *The Injury Machine: How Amazon’s Production System Hurts Workers*, at 1 (Apr. 2022), <https://thesoc.org/wp-content/uploads/2022/04/The-Injury-Machine-How-Amazons-Production-System-Hurts-Workers.pdf>.

¹⁰ *Id.* at 2.

progress on improving workplace safety.¹¹ Thus, in an attempt to represent Amazon’s current execution of its business model as safe and sustainable, Jassy provided to investors outdated figures that did not reflect the realities of Amazon’s business practices.

Second, Jassy’s letter uses figures for industry average injury rates that are skewed and cherry-picked to make Amazon’s injury rates seem “about average.” In both the warehousing and delivery sectors, Jassy’s letter and Amazon’s safety report do not cite the actual industry average reported by the Bureau of Labor Statistics (BLS), but instead cherry-pick a higher injury rate for a subset of employers.¹² For example, in the delivery and courier industry, the subcategory of large facilities selected by Amazon for this comparison had an injury rate of 9.1, 21 percent higher than the actual injury rate of 7.5 for the entire industry, which was lower than Amazon’s own stated rate of 7.6.

Third, Jassy’s letter claims to report “the average of our warehousing peers,” which gives the impression that Amazon excluded its own data from the calculation of that average. This is a material distortion: the average injury rate of Amazon’s warehousing peers is much lower if Amazon is excluded and compared *just* to its peers. In 2020, SOC’s analysis of injury data collected by OSHA found that Amazon employed 34 percent of workers in the warehouse sector—hence Amazon has an outsized influence on the “industry average.” Thus, when the SOC analyzed 2020 injury data collected by OSHA from non-Amazon warehouse employers, it found an injury rate of 4.0, 38 percent lower than the industry average that includes Amazon that Jassy cited in his letter to shareholders (5.5).¹³ By presenting an average of industry “peers” skewed by Amazon’s own injury rate, Jassy gave shareholders the impression that Amazon’s warehouse injury rate in 2020 was 18 percent higher than its peers (6.5 vs 5.5), when in fact, it was 63 percent higher (6.5 vs. 4.0).

Fourth, when reporting on Amazon’s own injury rate for its courier and delivery category, Amazon omitted injuries suffered by its 115,000 subcontracted Delivery Service Partner (DSP) drivers.¹⁴ DSP drivers, while employed by subcontractors, drive Amazon-branded vehicles and wear Amazon uniforms while using Amazon tracking technology under delivery quotas and work rules set by Amazon.¹⁵ SOC’s analysis of injury data submitted to OSHA found that DSP drivers have substantially higher injury rates than Amazon’s warehouse workers.¹⁶ Injury data reported by other companies in the courier and delivery category, however, include driver injuries. Thus, Amazon and Jassy’s claim that Amazon’s injury rates in the delivery and courier sector are “a little lower” than the average of its peers is misleading because it omits injuries affecting the huge workforce of DSP drivers who deliver packages under Amazon’s

¹¹ *Id.* at 1, 4.

¹² For the courier and delivery industry, instead of reporting the true 2020 industry average as reported by the Bureau of Labor Statistics (7.5), Amazon reported the average injury rate for facilities with 250 to 999 employees (9.1). Similarly, for the warehousing industry, instead of reporting the true 2020 industry average as reported by BLS (5.0), Amazon reported the average injury rate for warehouses that employ 1,000 or more workers (5.5).

¹³ Strategic Organizing Center, *Primed for Pain: Amazon’s Epidemic of Workplace Injuries*, at 3 (May 2021), <https://thesoc.org/wp-content/uploads/2021/02/PrimedForPain.pdf>.

¹⁴ Katie Schoolov, *Pee bottles, constant monitoring and blowing through stop signs: Amazon DSP drivers describe the job*, CNBC (June 21, 2021), <https://www.cnbc.com/2021/06/21/drivers-speak-out-about-pres-sures-of-delivering-for-an-amazon-dsp.html>.

¹⁵ Caitlin Harrington, *Some Amazon Drivers Have Had Enough. Can They Unionize?*, Wired (Mar. 19, 2021), <https://www.wired.com/story/some-amazon-drivers-have-had-enough-can-they-unionize/>.

¹⁶ Strategic Organizing Center, *The Worst Mile: Production Pressure and The Injury Crisis in Amazon’s Delivery System* (May 2022), <https://thesoc.org/wp-content/uploads/2022/06/The-Worst-Mile.pdf>.

control. Furthermore, Amazon and Jassy omit any context or background information to make it clear to investors that it is not, in fact, making an apples-to-apples comparison with “industry peers.”

Taken together, the cherry-picked and outdated data, along with skewed and inappropriate industry averages—which understate the rate of injuries at Amazon facilities and overstate the relevant industry averages—are used to back up Jassy’s false claim that with respect to injury rates, Amazon is “about average relative to peers.” SOC’s analysis of injury data that Amazon and other employers submitted to OSHA found that Amazon’s warehouse injury rates in 2021 were 92 percent higher than non-Amazon warehouses (7.7 vs 4.0), and that its subcontracted delivery drivers had injury rates more than twice as high as the non-Amazon delivery industry (18.3 vs 7.6).¹⁷ In neither case are Amazon’s injury rates remotely close to “about average” in its industries.

Furthermore, in addition to citing outdated, cherry-picked, and misleading figures, Amazon compounded the problem by failing to explain to investors the basis or methodology for its calculations—disclosures that might have allowed investors to evaluate the truth of these claims.

Taken together, Amazon’s false and misleading statements about its injury rates were taken at face value by reasonable investors, who apparently believed that Amazon was providing the most accurate and up-to-date analysis of its safety record.

Indeed, BlackRock, the second-largest institutional shareholder at Amazon, recently announced that it had voted against shareholder proposals on health and safety monitoring specifically because it took Amazon’s claims about injury rates in the *Delivered with Care* report at face value, stating that the company’s injury rates are “peer-aligned” and that the company’s disclosures on workplace safety are “sufficiently robust.”¹⁸ Although the SEC is not required to show reliance, BlackRock’s statement indicates a prominent and sophisticated investor relied on Amazon’s misstatements to inform how it voted its Amazon shares. If BlackRock had voted its shares in support of the resolution on increased workplace health and safety disclosure, the proposal would have received majority support.¹⁹

Materiality of Amazon’s Misleading Statements to Investors

There are several indications Amazon shareholders view Amazon’s health and safety record as material. Three different shareholders presented proposals regarding health and safety at Amazon’s 2022 annual meeting, including two resolutions requesting increased health and safety disclosures. One of these resolutions received majority support from outside investors and 44 percent support overall.²⁰

¹⁷Strategic Organizing Center, *The Injury Machine: How Amazon’s Production System Hurts Workers*, at 5 (Apr. 2022), https://thesoc.org/wp-content/uploads/2022/04/The-Injury-Machine_How-Amazons-Production-System-Hurts-Workers.pdf; Strategic Organizing Center, *The Worst Mile: Production Pressure and The Injury Crisis in Amazon’s Delivery System* (May 2022), <https://thesoc.org/wp-content/uploads/2022/06/The-Worst-Mile.pdf>.

¹⁸ BlackRock, Vote Bulletin: Amazon.com, Inc., at 5 (May 2022), <https://www.blackrock.com/corporate/literature/press-release/vote-bulletin-amazon-may-2022.pdf>.

¹⁹ SOC analysis of Amazon shareholder vote totals in Amazon Current Report filed May 27, 2022 on Form 8-K, at 5, https://www.sec.gov/ix?doc=/Archives/edgar/data/0001018724/000110465922065872/tm2215904d1_8k.htm; BlackRock share ownership in Amazon 2022 Proxy Statement filed April 14, 2022 on Form DEF 14A., at 87, https://www.sec.gov/Archives/edgar/data/1018724/000110465922045572/tm223357-5_def14a.htm#SHPR

²⁰ Amazon Current Report filed May 27, 2022 on Form 8-K, at 5, https://www.sec.gov/ix?doc=/Archives/edgar/data/0001018724/000110465922065872/tm2215904d1_8k.htm.

Further, Amazon’s top leadership has repeatedly addressed safety in communication with shareholders. In his final letter to shareholders as CEO in April 2021, Amazon founder and Chairman Jeff Bezos discussed workplace safety concerns at length and announced his intention that Amazon become “Earth’s Safest Place to Work.”²¹ Jassy’s decision to make the subject a central theme of his first annual letter to shareholders as CEO is further proof of the issue’s materiality.

In addition, Amazon’s core business model—and the Prime “brand” itself—rest on providing extremely fast deliveries of products to increasing millions of customers. In recent years, Amazon has invested heavily in its delivery and logistics infrastructure, so much so that it has severed or significantly reduced its reliance on third-party delivery services.²² Part of Amazon’s strategy in developing this aspect of its operations has been to expand the number products that can be ordered and delivered either on the same day, the next day, or in two days. Yet Amazon is currently fulfilling this mission through a draconian system of breakneck work pace, enforced through disciplinary policies, and by using low staffing levels that prioritize maximizing profits at the expense of worker safety.

Amazon faces several challenges related to its failure to substantially reduce the number of injuries suffered by workers in its facilities. OSHA regulators in Washington who cited Amazon for an unsafe workplace found a direct connection between Amazon’s high injury rates and “Amazon’s expectation that warehouse employees maintain a very high pace of work or else face discipline.”²³ In addition, key states—California and New York—recently passed legislation that regulates the use of quotas in warehouses and largely reflect concern that Amazon’s draconian work pace has led to an increase in workplace injuries.²⁴ Other states, such as Washington and New Hampshire, are contemplating similar laws.²⁵

In addition to these regulatory headwinds, Amazon may also face an inability to retain staff and related labor shortages, increased workers’ compensation costs, and other pressures that may make its business model, as currently executed, unsustainable.²⁶

²¹ Amazon Current Report filed April 15, 2021 on Form 8-K, at Exhibit 99.1,

https://www.sec.gov/Archives/edgar/data/0001018724/000110465921050346/tm216818d2_ex99-1.htm

²² Audrey Conklin, *Amazon becomes its own biggest carrier after cutting ties with FedEx*, Fox Business (Dec. 20, 2019), <https://www.foxbusiness.com/money/amazon-biggest-carrier-ups-fedex>.

²³ Katherine Anne Long & Will Evans, *Amazon’s relentless pace is injuring warehouse workers and violating the law, Washington state regulator says*, Seattle Times (May 25, 2021),

<https://www.seattletimes.com/business/amazon/amazons-relentless-pace-is-violating-the-law-and-injuring-warehouse-workers-washington-state-regulator-says/>;

Enforcement Case File Information, Washington State Department of Labor and Industries, inspection number 317965723, Mar. 9, 2022. *See also*, *Amazon fined \$60,000 after ‘willfully’ violating safety rules at a Seattle-area warehouse, regulators say*, Bus. Insider (Mar. 21, 2022),

<https://www.businessinsider.com/amazon-fined-serious-violation-washington-state-warehouse-worker-safety-2022-3>.

²⁴ Annie Palmer, *New York lawmakers pass bill limiting Amazon’s use of worker productivity quotas in warehouses*, CNBC (June 3, 2022), <https://www.cnbc.com/2022/06/03/new-york-passes-bill-targeting-amazon-warehouse-productivity-quotas.html>. Cal. Lab. Comm’n Office, Frequently Asked questions on Warehouse Quotas (Assembly Bill 701), https://www.dir.ca.gov/dlse/FAQ_warehousequotas.htm (last accessed June 9, 2022); Lauren Gurley, *New York Bill Would Force Amazon to Limit Grueling Warehouse Quotas*, NY State Senate (Apr. 29, 2022),

<https://www.nysenate.gov/newsroom/in-the-news/jessica-ramos/new-york-bill-would-force-amazon-limit-grueling-warehouse-quotas>.

²⁵ ABC News, *New York bill targets Amazon’s use of productivity quotas* (June 6, 2022),

<https://abcnews.go.com/Technology/wireStory/york-bill-targets-amazons-productivity-quotas-85217387>.

²⁶ Jason Del Rey, *Leaked Amazon memo warns the company is running out of people to hire*, Vox (June 17, 2022),

<https://www.vox.com/recode/23170900/leaked-amazon-memo-warehouses-hiring-shortage>.

Together, these challenges demonstrate that accurate, up-to-date injury data as well as truthful statements characterizing those data “would have been viewed by the reasonable investor as having significantly altered the ‘total mix’ of information made available” in ways that investors as weighty as BlackRock clearly care about.²⁷ Accordingly, company misstatements that Amazon’s higher-than-average injury rates are just “about average,” and similar misrepresentations, are material to a reasonable investor.

Jassy’s State of Mind

It is also clear that Jassy acted recklessly when he made the false and misleading statements at issue. In his letter to shareholders, Jassy begins his brief discussion of Amazon’s injury rates with the statement that “[o]ur injury rates are sometimes misunderstood.” This makes it quite clear that Jassy is aware of at least some of the independent investigative reports on Amazon’s injury rates, like those published by the SOC. In fact, in a CNBC interview from April 2022, Jassy was asked directly about data published by “union advocates,” ostensibly the SOC’s report on Amazon’s 2021 injury rates at its warehouses.²⁸ Jassy appeared to be familiar with the report and explicitly stated that “that data is not really accurate.”²⁹

Given Jassy’s awareness of other reports, which he knew were based on more timely injury data, along with apparently enough understanding of the SOC’s methodology to feel comfortable assessing the accuracy of the report, it is highly likely that the decision to use outdated, cherry-picked and skewed data when formulating Amazon’s own statements about its injury rates and how they compare to industry averages was intentional. In doing so, Jassy demonstrated reckless disregard for the truth of a material fact.

Furthermore, Amazon clearly benefits from investors and the market more generally believing its false claim that Amazon’s injury rates are “about average relative to peers.” The fact that these false or misleading statements are in the company’s self-interest is further suggestive that the statements were made recklessly as opposed to merely negligently.

Jassy unquestionably has liability for his false and misleading statements under Section 17(a)(2) of the Securities Act as well, because he undoubtedly acted negligently in making these statements, given the accurate information of which he appeared to be aware.

Amazon and CEO Jassy made repeated false and misleading statements regarding Amazon’s injury rates and how they compare to relevant industry averages, in a letter conveying these statements directly to shareholders to try to assuage growing concern about this subject. These statements were made recklessly and concerned facts material to investors. Accordingly, the SEC should investigate and take appropriate action against Amazon and Jassy for violating Section 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder, and Section 17(a)(2) of the Securities Act.

²⁷ *Matrixx Initiatives, Inc. v. Siracusano*, 563 U.S. 27, 38 (2011).

²⁸ Andrew Ross Sorkin, *Amazon CEO Andy Jassy: Employees are better off not joining a union*, CNBC (Apr. 14, 2022), <https://www.cnbc.com/video/2022/04/14/amazon-ceo-andy-jassy-employees-are-better-off-not-joining-a-union.html>.

²⁹ *Id.*

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael R. Zucker". The signature is fluid and cursive, with a prominent initial "M" and a long, sweeping tail.

Michael R. Zucker
Executive Director