Foxglove Briefing: Busting Amazon's myths about its unsafe warehouses and management by algorithm

2 Dec 2022

At a [session of the BEIS committee on November 15, 2022,](#) Amazon's EU Head of Public Policy Brian Palmer gave evidence about Amazon's working conditions and safety record and sought to minimise the role algorithmic management plays in Amazon warehouses.

Foxglove, a legal non-profit that is supporting UK Amazon workers' drive for fair pay and working conditions, submits this supplemental briefing because several claims Mr Palmer made to the Committee appear to have been misleading at best – and at worst, deceptive.

We formed this view by comparing Palmer's evidence to the public record in several cases litigated in the US National Labour Relations Board (NLRB), the US industrial relations tribunal. We also tracked Palmer's claims against newly-filed evidence in another important US case, *Amazon v. Sacks,* in Amazon's home state of Washington. In the *Sacks* case, Amazon is battling safety regulators' findings that Amazon's robotic warehouse in Kent, WA, poses 11 "serious and willful" health and safety risks that violate state law and require urgent reforms. The regulators in the *Sacks* case specifically found that safety risks arose *because* of the pressure Amazon puts on workers to achieve high work rates and avoid breaks.

Our view is also informed by in-depth interviews Foxglove has conducted with workers at multiple Amazon warehouses across the UK.

Because Mr Palmer made several related statements, we break this submission down by Mr Palmer's main claims (on **surveillance**, **safety**, and **transparency** of working standards), pointing to evidence from the public record in the United States and worker testimony which tends to rebut each one.

The Committee may wish to clarify with Mr Palmer and Amazon whether the company can prove that the position is different in UK warehouses - a matter that Amazon should be asked to demonstrate with evidence, rather than merely assert.

False Claim One: Amazon surveils its warehouse workers to stop them stealing and keep them safe, not to manage their performance.

Amazon's Brian Palmer told the committee that the company uses surveillance tools – cameras and tracking software – to protect goods and worker safety, not police performance**:**

> "What we're not doing is seeking to monitor or surveil our people, that's... their privacy is something that we respect. [...] But when someone is working at a fulfilment centre, when they're at a station, **the focus of the software and hardware that we've been discussing is on the goods. It's not on the people themselves.**
>
> "But the point about performance, that's not where we focus when we deploy these systems. **They are not primarily or even secondarily to identify underperformers.** Performance-related feedback is **really focused on safety** and what we would consider internally quality, not on things like speed or productivity. […] Their primary purpose is not to track individual productivity." [emphasis supplied]

Fact: Amazon's surveillance software, which typically measures workers by data gathered from a worker's scanner, generates data that are **explicitly used to set performance targets.**

The main two performance targets which Amazon monitors, tracks, and adjusts algorithmically are:

1) requirements to hit a certain **rate** (the number of parcels or items that must be, for example, picked or stowed per hour), and
2) the requirement not to go over a certain **idle time** (in Amazon-speak, **"Time Off Task"** (TOT)).

Evidence: Amazon US Time Off Task Guidance (Annex 1).

Amazon's own internal "Guidance" document for Time Off Task – disclosed in NLRB litigation in the US – shows that Time off Task *is primarily* used for performance. It sets out how workers are monitored and ranked by this target – and, if they fall behind, penalised or terminated.

The document instructs managers to identify the "**top offenders**" – as if a disabled, pregnant, or older worker who cannot keep the extreme pace of a robotic warehouse were committing a criminal offence.

The objective of setting stringent TOT standards and ranking them, the document claims, is to make workers police their time out of fear: "The goal of auditing this TOT is to create an environment not where we are writing everyone up, **but that associates know that we are auditing for TOT, and will own their own time to be within standard**." This is an implicit admission that Amazon seeks to create a culture of overwork and avoiding breaks.

The same Amazon guidance states that workers who perform low in a TOT ranking face written warnings and potential termination. It cites specific consequences that flow from associates accumulating a certain amount of "Time off Task" in a year:

- Between 30 and 59 minutes of TOT accumulated during a (rolling) 12-month period = Associate Receives a First Written Warning
- Between 30 and 59 minutes of TOT + a First Written Warning during a (rolling) 12-month period = Associate Receives a Final Written Warning
- Between 60 and 119 minutes of TOT accumulated during a single day = Associate Receives a Final Written Warning
- Over 30 minutes of TOT accumulated during a single day + a Final Written Warning during a (rolling) 12-month period = Associate is Terminated
- Over 120 minutes of TOT accumulated during a single day = Associate is Terminated

This means, in short, that Amazon considers **three thirty-minute episodes in a year of 'Time Off Task' grounds for termination**. This extremely stringent metric is a performance metric, not a safety standard.

Fact: Amazon operates a **"rank and yank"** policy that sorts workers relatively, rather than by reference to an objective empirical target, and generally seeks to terminate the bottom five percent of workers.

Evidence: US Declaration of Alexsis Stephens – Director of HR for US Non-Sort Buildings at Amazon (July 7, 2020) (Annex 2).

This legal filing from Amazon, a declaration of a US Amazon director, shows that when a worker is ranked in the bottom fifth percentile of her warehouse, Amazon's software will automatically generate proposed warnings for management – which were not shared with staff.

See Annex 2 at 2:

"Associates in the lowest fifth percentile (5%) of productivity were eligible for discipline beginning with negative productivity feedback (assuming they met certain other criteria)." Para. 7.

"When an associate was at or below the bottom fifth percentile, proposed warnings for management's review were automatically generated through a computer system. These proposed warnings were not visible or made known to associates. Para. 8.

These algorithmic warnings begin a process that could ultimately lead to termination.

This practice is generally called "rank and yank." It sets workers up to fail, by giving them no objective standard to work to, and creates a culture of uncertainty and fear.

This algorithmic assignment of discipline and penalties to workers appear to contradict Palmer's statement to the committee: "To be clear, the algorithm is not making those decisions." Other legal documents make clear that "rank and yank" remains the policy in warehouses across the US in 2022.[1]

If carried out in the UK, the "rank and yank" practice likely violates UK employment law – because workers are being held to a *relative* standard to keep their jobs, rather than an objective and reasonable one. The practice may also raise issues under discrimination law.

False Claim Two: Amazon's extreme tracking and stringent targets, especially in its robotic warehouses, are safe, not dangerous drivers of injury.

Brian Palmer also sought to suggest to the committee that Amazon's warehouses – in particular its robotic ones – were steadily improving safety standards. He even suggested Amazon were industry leaders in this regard and outperformed other warehouses:

"In terms of improving outcomes for people, what we see is an improvement in, again, safety, the reduction of things like repetitive motion injuries or muscular or skeletal disorders, improvements in employee retention are more sustainable in an industry where, candidly – logistics, warehouses and transportation – has been subject to high attrition. We **continue to perform better than industry** on that."

---

[1] See eg Annex 4 (**Declaration of Doctors Harrison, Rempel, Adamson,** described *infra*), at 10 ("The target for productivity of 95% of peers at BFI4 [Kent] is far too high to ensure that workers are not exposed to biomechanical hazards.")

Fact: Evidence from the US indicates that Amazon's extremely high rates of work and pressures not to take breaks – especially in robotic warehouses – are a major driver of injury. In the US, regulators have assessed that Amazon's warehouses perform *worse* than other warehouses on safety, not better. Until Amazon has published transparent and auditable statistics here in the UK, Mr Palmer's claim is questionable.

Evidence: Ergonomics assessments and legal filings by Washington regulators in *Amazon v. Sacks* (**Annex 3**, Declaration of Richard Goggins in *Amazon v Sacks*, **Annex 4,** Declaration of Doctors Harrison, Rempel, and Adamson in *Amazon v Sacks*, and **Annex 5,** Washington Labour Department Filing).[2]

Earlier this year, the Department of Labor in Amazon's home state of Washington issued Amazon a series of citations for 11 'serious wilful' violations of health and safety law at its robotic Kent warehouse. The regulators cited multiple declarations from expert ergonomists who inspected the warehouse in detail and demanded urgent safety reforms.

These specialist inspectors found that:

- **Amazon's robotic warehouses perform *worse* than other warehouses on safety.**
    o Annex 3 at 8: "Soon after the facility opened in 2016, the injury rate there grew to be much higher than the rate for the warehousing industry in Washington State. Their musculoskeletal disorder (ergonomic injury) rate was up and down between 2017 and 2021, rather than a steady decline that one would expect with a concerted effort to fix hazards."
    o Annex 4 at 3: "Using Federal OSHA data, which has 300A data for 2020 for every enterprise in the US with 100 or more workers, the DART [number and rates of injuries] rate, for all warehouses, except Amazon, was 1.9. In 2020, for Amazon warehouses with 100 or more workers, the DART rate was 9.0."

- **Amazon had failed to organise most workstations in ways that minimised risk of - musculoskeletal disorders or injury** ("**MSDs**").

---

[2] These documents were disclosed in a federal case that Amazon filed seeking not to comply with the regulators' demands (*Amazon v. Sacks*, Case No. 22-cv-01404-JCC, US District Court for the Western District of Washington). NB: the *Sacks* litigation involves a large volume of evidence. For brevity's sake we are submitting two of the principal documents setting out the inspectors' findings and one of the Department's legal pleadings showing Amazon's systematic obstruction. The full pleadings in the case are available on request. Highlighting in the documents comes from the Washington regulators' legal team, rather than Foxglove.

- Annex 3 at 2: "During our initial walk-through of the Kent facility, I observed a number of work processes with known risk factors for musculoskeletal disorders."
- Annex 3 at 5: "In many … processes we saw very little evidence of engineering controls beyond basic workstation design and the use of step stools for accessing higher locations."
- Annex 4 at 3: "This evidence clearly shows that the manual materials handling tasks at the BFI4 [Kent] warehouse expose Amazon employees to hazards that are well known to cause serious and disabling MSDs."

- **Much of the risk in the robotic warehouses derives from the inhuman pace of work.**
  - Annex 3 at 7: "Based on our inspection at Kent and at other Amazon facilities, I believe that addressing the risks due to the pace of work will be critical to successfully reducing injury rates, especially at their fulfillment centres."
  - Annex 4 at 6: "The physical demands of the work processes at BFI4 [the Kent warehouse] are so high that only engineering abatements, reduced work hours, or reduced pace of work will lower the risk of injury."

- **Amazon seeks to push responsibility for safety onto workers, rather than setting transparent and achievable targets and designing a safe warehouse floor.**
  - Annex 3 at 7: "Designing workstations to reduce awkward postures and training workers to work close to their bodies are not as effective when the pace of work pushes them to take shortcuts and use the fastest motions possible. Amazon's approach of having workers wear devices that vibrate to alert them when they're working in awkward postures is just another way of making employees believe it is their fault when they can't both work safely and keep up with the pace of work."
  - Annex 4 at 5: "there is substantial focus on coaching workers and expecting them to prevent injury using stretching, wellness knowledge, and safe lifting techniques while performing jobs that are inherently hazardous by design."
  - Annex 4 at 6: "when recommended stretches pop up on employees' screens, employees reported that the time counts against them and can affect their work rates or penalize them by giving them TOT (time off task)."
  - Annex 4 at 7: "Consistent with scientific literature, the behavioural training provided at the Kent warehouse has little or no effect on reducing injuries."
  - Annex 4 at 10: "If the pace of work is not reduced or breaks are not provided, or mandatory over-time is not discontinued, serious injuries will occur."

- **The strain of warehouse work has caused workers to break down**.

- o Annex 3 at 7: "The constant pressure to "make rate" was frequently mentioned during employee interviews as one of the factors that led to fatigue and symptoms of injury. One employee even broke down crying during our interview while recounting the toll that the physical demands of the work had placed on their body."

- **Amazon systematically obstructed Washington officials' efforts to inspect the Kent warehouse.**
  - o Annex 3 at 3: "As part of a document request to Amazon early in the inspection process, we asked for copies of any of their ergonomics analyses. This is a standard practice during these types of inspections, since it gives us a better idea of steps the employer has taken to address injury risks. With the exception of evaluations for one job, Amazon refused this request."
  - o Annex 5 at 4: "The third visit … followed the Department obtaining a [court] order ordering Amazon not to interfere with the inspection and specifically allowing the Department and its experts to collect data documenting the ergonomic violations at issue in this matter."

False Claim Three: Amazon consistently ensures that workers understand the targets they are assessed against

Mr Palmer also told the committee that workers can readily access and understand their performance targets:

> "We do also keep things like performance data as we work with people and identify areas where we need to improve. But that data is accessible to people and they can request with us or see it through our internal system. **We have online tools that are made available to every single employee. And they all have access to that data**."

Fact: Workers in the US and UK have regularly reported – to Foxglove, to regulators, and to unions – that they cannot readily access information about their rates or their time off task.

Mr Palmer's account flies in the face of repeated testimony from workers at multiple US and UK warehouses. While warehouse *supervisors* can easily access performance data, most employees on the floor cannot easily access this at their workstations and are not consistently told it by managers. Most will only know they have 'fallen behind' when pulled up by a manager. In many of these conversations, workers report being told that "the system" has informed the manager that the worker is falling behind – which strongly suggests that algorithmic sorting and "rank and yank" is taking place at UK warehouses.

As recently as this week, a worker informed Foxglove that workers at their warehouse had "no access" to their rates at the workstations and would only be told this information "if the leads or managers bother," which they did not regularly do.

This is corroborated by accounts from multiple confidential interviews with Amazon workers at five warehouses across the UK. While we have not named any worker to protect them from retaliation, Foxglove would be glad to explore organising first-hand evidence from one of these workers on request.

Conclusion

Brian Palmer's evidence was materially misleading in several respects. One, Amazon uses Time Off Task and piece rates specifically for the purpose of monitoring worker performance and ranking them according to a controversial and dehumanising standard.

Two, the sheer pace of Amazon's standards – particularly in Amazon's most robotic warehouses – is likely to increase the rate of worker injury, rather than reduce it, as evidenced by the formal investigation into the company by safety regulators in the US.

Three, there is significant testimonial evidence to suggest that Amazon's fluctuating TOT and rates are an opaque system that is not properly communicated to or shared with workers, despite the obvious impact on their working lives. A more accurate description of Amazon's 'transparency' to its workers is that the information is, in the immortal words of Douglas Adams: "on display in the bottom of a locked filing cabinet stuck in a disused lavatory with a sign on the door saying: 'Beware of the Leopard.'"

This makes it difficult to escape the conclusion that Amazon told several untruths to the committee at this evidence session. Foxglove would be happy to engage further with the committee on any of the points in this submission at their convenience.

Annex List

1. **Amazon Time Off Task Policy for JFK8, the Staten Island warehouse (no date given)**
2. **US Declaration of Alexsis Stephens – Director of HR for US Non-Sort Buildings at Amazon (7 July 2020)**
3. **Declaration of Richard Goggins (12 May 2022)**
4. **Declaration of Doctors Harrison, Rempel, Adamson (12 May 2022)**
5. **Washington Labour Department Filing (16 May 2022)**