



TAKE
CREATIVE
CONTROL



HELPING AUTHORS OF COLOR SHARE THEIR STORIES

ANTITRUST, E-COMMERCE, AND THE CREATOR
TAKE CREATIVE CONTROL

JAN 2021

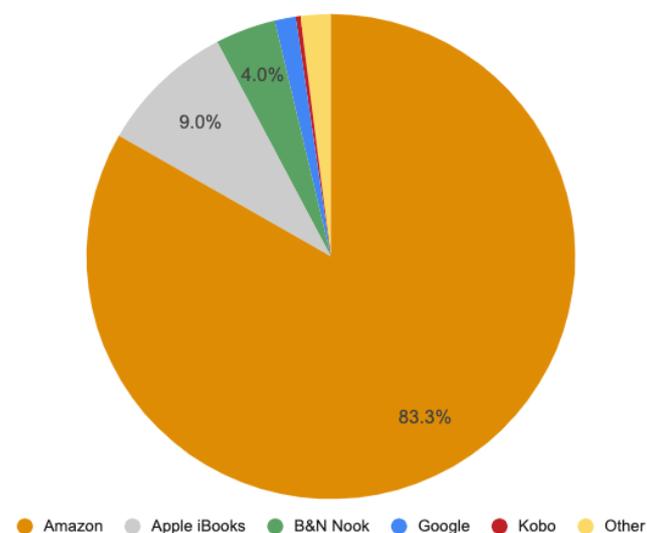
KIM TIGNOR
CHANNING GATEWOOD

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When Jason Primrose, an independent science fiction author, finished his first book, he decided to self-publish. Publishing a book through the traditional route would have meant going through the gauntlet of gatekeepers—literary agents, editors, publishers—that has disadvantaged writers of color for centuries. By contrast, self-publishing gives writers, like Jason, direct access to the market, where all that matters is if readers enjoy what they discover.

Independent authors have a few routes to self-publishing, but these days nearly all of them lead back to **Amazon**. Whether you are selling e-books, paperbacks, or both, Amazon is the undisputed leader. And so, like many other authors in his position, Jason put his faith in the world’s largest bookseller.

FIGURE 1: SHARE OF E-BOOK SALES BY RETAILER (FEB 2017)

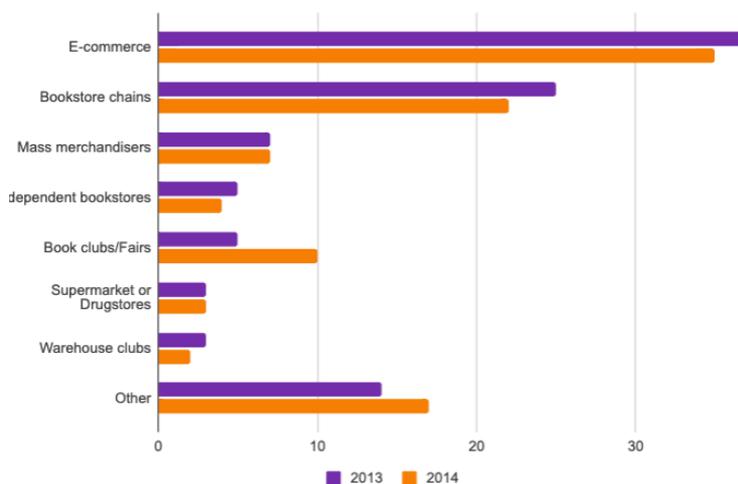


SOURCE: AUTHOR EARNINGS

At first, Amazon’s massive market share seemed like a clear advantage. But Jason soon realized what little control he had over how his book was distributed and at what price. There was no one to negotiate with, and his books were subject to Amazon’s opaque algorithm. The company has marketed itself as an ideal platform for entrepreneurs and independent authors, but in reality authors have little choice but to use Amazon. It has crowded out the market. What chance does an ebook have if it’s not on Kindles?

Concerns about Amazon’s size and anticompetitive practices have circulated for years. Its dominance in the book selling industry has also challenged publishing companies and their authors. Traditionally, publishers sell their books to bookstores for a fixed price, and the bookstore controls the sale price of the book to consumers. On Amazon, however, the majority of newly released books are listed at a price set by Amazon, which is often much lower than that of the traditional bookstore. Amazon’s size means it can undersell a book, even at a loss, for the purpose of controlling the market. Publishers have warned that this practice is eroding the industry as a whole, as consumers now expect books to cost very little. Books may soon go the route of music, where consumers who used to buy CDs for \$20 each now balk at accessing millions of albums for a small subscription price. Independent bookstores, authors, and other small industry players are taking the biggest hit, stifling creativity.

CHART 1: CONSUMER SPENDING ON BOOKS BY CHANNEL (2013 AND 2014)



SOURCE: NIELSEN, PUBLISHERS WEEKLY

The literary works of Jason and other authors of color are crucial to the field of storytelling, as they bring to light new perspectives and a level of authenticity often lost in traditional mediums. The beauty of Jason’s characters allow readers from different backgrounds to see themselves in his stories. It is this diversity in storytelling that self-publishing platforms promised, and yet, platforms like Amazon have failed to ensure a sustainable path to success for authors of color.

ANTITRUST LAW AND SMALL BUSINESS OWNERS

Antitrust law was enacted to prevent companies from engaging in practices that would unfairly stifle competition, and consumer prices are at the heart of the law. Without fair competition, prices will rise, hurting consumers. However, when we attempt to apply antitrust laws (some of which are over 100 years old) to the digital world, implementation gets murky.

Take, for example, the **Facebook** and **Instagram** merger in 2012. At the time, Instagram only had about 30 million users, a drop in the bucket by industry standards. One could argue that Facebook was attempting to take out a competitor, but remember, Instagram was still pretty nascent at the time. And what about the cost to the user? The apps were free before and after the merger. There are non-monetary costs, such as privacy and data concerns, but they are a lot harder to quantify within the current confines of our regulatory system.

In the case of the book industry, the Department of Justice filed a lawsuit in 2012 against a group of publishers and **Apple** for allegedly colluding to manipulate the prices of e-books. These not-so-small-scale publishers—HarperCollins, Penguin, MacMillan, Hachette, and Simon & Schuster—had entered into legally uncharted waters. How much should e-books cost? What is a fair price? By colluding, the publishers and Apple were effectively taking on Amazon and its low prices. Looking at prices, alone, Amazon's price cutting appears to benefit the consumer. But what about the non-monetary costs? The costs to creativity and the future of the literary world? Again, that is much harder to define.

The glaring issue in each of these cases is that current antitrust laws cannot keep up with the digital world we are living in. The five most valuable companies in America today are all "Big Tech" companies—Amazon, Apple, Facebook, **Google**, and **Microsoft**. Their tactics and



approaches may not pass the gut check of fairness or equity, but regulators do not seem too eager to jump in.

The reality is these companies are changing the markets for everyone, from how they compete with each other to how small businesses try to keep up. Small businesses have to interact with these companies in one way or another, whether it's Amazon for the platform, Facebook and Google for marketing, or Microsoft for business tools. There is often no way around them. However, the government's failure to consistently and aggressively enforce antitrust laws has

allowed a rise in monopolistic activities that affect small businesses, especially those operated by people of color. These entrepreneurs have been pushing the Federal Trade Commission and the Department of Justice, the two agencies responsible for enforcing antitrust laws, to do more to protect small businesses and foster fair markets. Until then, small businesses have little choice but to accept the terms of Big Tech. We must push the government to do more to protect these small businesses by ensuring fair competition and promoting creativity.

Sources

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About The Series:

Take Creative Control Launched "The Series" to highlight the unique challenges that black and minority creators, artists and entrepreneurs faced during the COVID-19 pandemic. We received dozens of stories from entrepreneurs, artists, and shop owners about how they have had to adapt during the crisis, what support they received, if any, and what assistance they will need in the future. The video series can be found on our website at <https://takecreativecontrol.org/take-creative-control-the-series/>.

About Take Creative Control:

Take Creative Control (TCC) is an initiative of the Institute for Intellectual Property & Social Justice, a nonprofit organization that works to ensure creators of color are empowered to protect, share, and monetize their creative works.



Meet Jason Primrose

Jason is an independent science fiction author, most notable for his creation of the Lost Children of Andromeda universe. His stories provide a unique perspective on society's intricacies and explore how our current socioeconomic and political landscapes can impact our future while integrating his trials and triumphs as an LGBTQ+ person of color. His storytelling gifts have powered a decade-long career in creative strategy, digital and experiential marketing, and influencer partnerships for key industries -- from beauty to tech, from fashion to entertainment.

To learn more about and support the "The Children of Andromeda" series visit <https://2052endswithz.com/>