

# Global Unions' Committee on Workers' Capital

## Statement for Investors on the Union Election at Amazon's Facility in Bessemer, Alabama

**Amazon's anti-union campaign interfered with its workers' internationally-recognized rights to freedom of association**

On April 9, 2021, Amazon.com, Inc. ("Amazon") prevailed over its workers who attempted to exercise their freedom to form a union at its Bessemer, Alabama facility (USA). In an election run by the U.S. National Labor Relations Board ("NLRB"), a majority of workers who voted chose the "no" option against coming together in a union to negotiate for improved pay and working conditions with the Retail, Wholesale and Department Store Union (RWDSU).

Despite U.S. President Joe Biden's remarkable support for the workers to unionize,<sup>1</sup> the union election outcome was not unexpected given the level of control that Amazon exercises in its facilities, its apparent willingness to violate its own human rights pledges, and the ease with which it could exploit the weaknesses of labor law in the United States.

Every worker should have a free and fair choice to join a union.



President Biden Delivers Remarks to Workers

The RWDSU has alleged that Amazon illegally interfered in the union vote by mounting a rigorous, multi-faceted, and expensive campaign that was both legally and ethically questionable.<sup>2</sup> This union avoidance campaign contrasts sharply with Amazon's own pledge to be "guided by the UN Guiding Principles on Business and Human Rights," and to "respect and support the Core Conventions of the International Labour Organization (ILO), the ILO Declaration

on Fundamental Principles and Rights at Work, and the UN Universal Declaration of Human Rights."<sup>3</sup>

The ILO Declaration on Fundamental Principles and Rights at Work commits ILO Member States to respect and promote principles and rights in four categories, irrespective of whether or not they have ratified the relevant Conventions. These categories include the rights to freedom of association and the effective recognition of the right to collective bargaining.<sup>4</sup>

Under ILO Conventions, the choice to join a union rests solely with workers, not employers. Employers and their agents are expressly prohibited from "any acts of interference" in the "establishment, functioning or administration" of workers' organizations.<sup>5</sup> ILO Conventions on freedom of association and collective bargaining apply regardless of national or local law, so actions legal under national law may violate ILO Conventions.<sup>6</sup>

**“** They deny us good working conditions and claim we should be happy with what we have, and then go around spending millions to tell us we don't need a union.”



**–Jennifer Bates, a Bessemer Amazon worker and union advocate**

Adherence to ILO Conventions is particularly important in the United States, where national employment and labor law offers many fewer protections for the right to organize and the right to bargain collectively.<sup>7</sup> For example, U.S. workers generally do not have employment contracts. Rather, they are employed "at will," meaning their employment can be terminated by their employer at any time for any reason,

except an illegal one.<sup>8</sup> As a result of U.S. law, employers have near-unilateral control over the terms and conditions of work and considerable power over their employees' ability to make a living.

Additionally, U.S. law gives employers considerable latitude to express their opposition to unions, and they do so with increasing ferocity.<sup>9</sup> Often, employers do more than speak against a union. It is nominally illegal to fire a worker for union organizing in the U.S. but there are no financial penalties for doing so. Employers regularly fire workers who try to organize, and the NLRB charged employers with violating federal law in 41.5% of union elections in 2016 and 2017.<sup>10</sup> Consequently, a "free and fair" union election is virtually impossible in the U.S. if the employer chooses to run a union-avoidance campaign.

## Focus on Amazon in Bessemer

Amazon's union avoidance campaign in Bessemer illustrated the company's power and the inability of U.S. labor law to protect workers' freedom of association. Amazon has reportedly developed sophisticated forms of surveillance to detect union organizing activity, including monitoring employee listservs and social media groups, training managers to look for warning signs that workers are planning to form a union, and using mapping software that can visually track union organizing activity. Amazon has denied that these systems are designed for detecting and curbing union activity.<sup>11</sup> In previous incidents at other locations in the U.S., Amazon has denied NLRB allegations that the company illegally retaliated against workers for publicly speaking about their working conditions.<sup>12</sup>

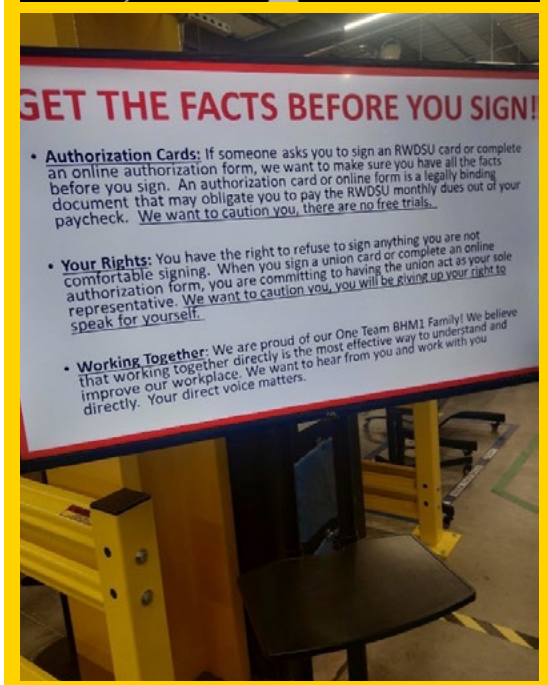
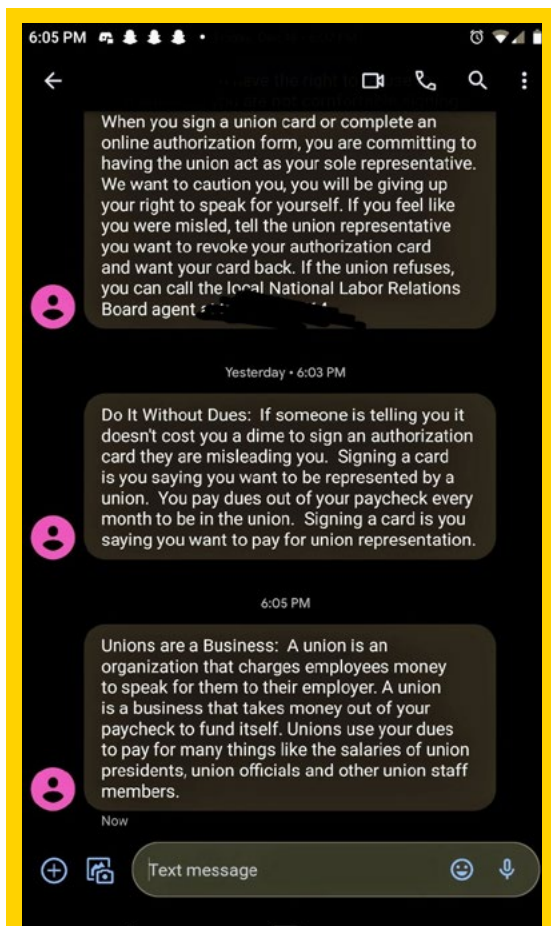
As soon as it became aware of the unionization effort in Bessemer, Amazon hired Morgan Lewis & Bockius, a prominent union avoidance law firm.<sup>13</sup> As a former union avoidance consultant, Marty Levitt, wrote in his 1993 book *Confessions of a Union Buster*, "Union busting is a field populated by bullies and built on deceit. A campaign against a union is an assault on individuals and a war on the truth. The only way to bust a union is to lie, distort, manipulate, threaten, and always attack."<sup>14</sup>

**“** We were forced into what they called “union education” meetings. We had no choice but to attend them. They would last for as much as an hour and we’d have to go sometimes several times a week. The company would just hammer on different reasons why the union was bad. And we had to listen. If someone spoke up and disagreed with what the company was saying they would shut the meeting down and told people to go back to work. Then follow up with one-on-one meetings on the floor.”

**– Jennifer Bates, a Bessemer Amazon worker and union advocate**

Even before the NLRB ordered the election, Amazon launched regular, repeated, mandatory “captive audience” meetings where management personnel spoke to workers against unionizing during work time.<sup>15</sup> The company set up a website [www.doitwithoutdues.com](http://www.doitwithoutdues.com)<sup>16</sup> to deliver anti-union messages.<sup>17</sup> It posted anti-union posters around the facility including in bathroom stalls.<sup>18</sup> Text messages to workers also delivered anti-union messages,<sup>19</sup> as did Amazon-produced anti-union videos posted on social media.<sup>20</sup> Making it harder for the union to talk to workers as they left the facility, Amazon had the county government shorten the red light at the facility's entrance.<sup>21</sup> When the NLRB ruled that Amazon could not install a ballot collection box at the facility, the company pushed the United States Postal Service to install a mailbox on its property and mailed instructions to workers to “vote no” using the box.<sup>22</sup> High turnover, both voluntary and involuntary, of Amazon's U.S. warehouse workforce of around 100% per year<sup>23</sup> made it more difficult for the union to reach the entire workforce.

Amazon made numerous public statements against its workers' forming a union, some of which were false or misleading. An Amazon message board claimed workers would be required to pay dues – a false claim as Alabama is a “right to work state” where paying dues in unionized workplaces is voluntary.<sup>24</sup> An Amazon worker received a text message believed to be from Amazon that warned signing a union authorization card “will be giving up your right to speak for yourself.”<sup>25</sup> An Amazon website stated that unionizing “will be RESTRICTIVE meaning it won't be easy to be as helpful and social with each other” although union representation does not prevent workers from being helpful or social with each other.<sup>26</sup>



Amazon claimed that the union does not represent “the majority of our employees’ views.”<sup>27</sup> Yet, the company felt it necessary to launch a rigorous campaign to convince its employees of its claim. The implication is clear: left to make the decision on their own and free from employer pressure – as required by ILO Core Conventions – Amazon workers may have come to a different decision on unionization. In the U.S., workers are far more likely to successfully exercise their freedom to come together in a union when their employer agrees to neutrality.<sup>28</sup>

“ A lot of what was said in those meetings was untrue, like telling people they'd lose their benefits if they joined the union. It was upsetting to see some of the younger people who were really on board with the union get confused by what was being said in meetings.”

– Jennifer Bates, a Bessemer Amazon worker and union advocate

Scores of large multinational companies have adopted and implemented global [framework agreements](#) with union organizations. Those agreements help ensure companies respect workers’ rights across their global operations. Some of the global framework agreements include a commitment to neutrality in union organizing.<sup>29</sup> Danone, for example, has a five-year agreement with the IUF that details procedures for union elections at company subsidiaries in the U.S. under which hundreds of workers have joined a union. Similarly, H&M and Inditex have negotiated union neutrality agreements covering their retail stores as a result of their agreements with UNI Global. Amazon could live up to its human rights commitments by negotiating similar neutrality agreements with U.S. unions.

The Retail, Wholesale and Department Store Union is filing objections to Amazon’s conduct in the union election with the National Labor Relations Board.<sup>30</sup> In the process, which will take weeks or months, further details of Amazon’s behavior will emerge, and the Board will decide if Amazon violated the law. Should it agree with the union, it could order another election.



## Recommendations for Investors Engaging Amazon

Shareholders can encourage Amazon to adopt a policy of neutrality<sup>31</sup> in union elections and ask the company the following questions:

- Amazon has been forced by law or pressure to negotiate with workers and their unions in several countries in Europe,<sup>32</sup> demonstrating that the company can operate with unions. How does Amazon reconcile its union avoidance activities in Bessemer with its pledge to abide by the UN Guiding Principles on Business and Human Rights, the Core Conventions of the ILO, the ILO Declaration on Fundamental Principles and Rights at Work, and the UN Universal Declaration of Human Rights?
- Will Amazon initiate dialogue with the relevant trade unions at the national and global levels on how Amazon can implement its labor rights commitments?
- Will Amazon adopt a labor neutrality policy and refrain from the future use of union avoidance activities in the U.S., including the retention of a union avoidance law firm; the holding of on-the-clock mandatory “captive audience meetings”; and the production of anti-union posters, websites, videos, texts, and social media?
- As part of its campaign against its workers unionizing, Amazon claimed to offer industry-leading wages and benefits. However, other warehouses in the Bessemer area pay more, and the median wage in the greater Birmingham area, which includes Bessemer, is nearly \$3/hour more than Amazon pays.<sup>33</sup> Will Amazon pledge to negotiate in good faith with its workers who exercise their freedom to organize a union?
- Amazon CEO Jeff Bezos pledged last summer to support Black Lives Matter.<sup>34</sup> In the U.S., Amazon frontline workers are disproportionately people of color and its managers are disproportionately white and male.<sup>35</sup> An estimated 85% of the workforce at Amazon's Bessemer facility is Black.<sup>36</sup> Will Amazon adopt a Rooney rule requirement to consider diverse candidates for hiring supervisors and managers?

The Committee on Workers' Capital Investor Brief [Amazon In-Depth](#) outlines risks with respect to employee health and safety, infringement of international labor standards, and aversion to collective bargaining at Amazon.



## Endnotes

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- <sup>5</sup> ILO, "Convention (No. 98) Concerning Right to Organise and Collective Bargaining," July 1, 1949, Article 2, Section 1, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312243:NO](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312243:NO).
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- <sup>7</sup> David Weissbrodt and Matthew Mason, "Compliance of the United States with International Labor Law," *Minnesota Law Review* 98, no. 5 (2014): 1842-1878, [https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1372&context=faculty\\_articles](https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1372&context=faculty_articles); Julia Conley, "With 'Systemic Violations' of Worker Rights, US Comes in Dead Last in Labor Rankings of Wealthy Nations," *Common Dreams*, June 18, 2020, <https://www.commondreams.org/news/2020/06/18/systemic-violations-worker-rights-us-comes-dead-last-labor-rankings-wealthy-nations>.
- <sup>8</sup> Illegal reasons for dismissal would be those based on an employee's race, color, religion, sex, national origin, age, disability, veteran status, or, in some states, sexual orientation. It is also illegal to dismiss an employee for engaging in "protected concerted activity" which includes speaking on behalf of or acting with colleagues regarding employment conditions or unionization.
- <sup>9</sup> Kate Bronfenbrenner, "No Holds Barred—The Intensification of Employer Opposition to Organizing," Briefing Paper #235 (Washington, D.C.: Economic Policy Institute, May 20, 2009), <https://www.epi.org/publication/bp235>; Lawrence Mishel, Lynn Rhinehart, and Lane Windham, "Explaining the Erosion of Private-Sector Unions: How Corporate Practices and Legal Changes Have Undercut the Ability of Workers to Organize and Bargain," *Unequal Power* (Washington, D.C.: Economic Policy Institute, November 18, 2020), <https://www.epi.org/unequalpower/publications/private-sector-unions-corporate-legal-erosion>.
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- <sup>17</sup> Id.
- <sup>18</sup> Id.
- <sup>19</sup> Id.
- <sup>20</sup> Annabelle Williams, "Watch Amazon's Anti-Union Ads That Twitch Is Removing," *Business Insider*, February 25, 2021, <https://www.businessinsider.com/amazon-anti-union-ads-removed-by-twitch-alabama-warehouse-2021-2>.
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- <sup>31</sup> Neutrality implies ceasing to interfere with an employee's decision to associate and also recognise that all workers are free to form and/or join a trade union of their choice. See International Labour Organization, ILO Helpdesk; Q&As on Business and freedom of association, [https://www.ilo.org/empent/areas/business-helpdesk/faqs/WCMS\\_DOC\\_ENT\\_HLP\\_FOA\\_FAQ\\_EN/lang--en/index.htm#O3](https://www.ilo.org/empent/areas/business-helpdesk/faqs/WCMS_DOC_ENT_HLP_FOA_FAQ_EN/lang--en/index.htm#O3)
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## About the Committee on Workers' Capital (CWC)

The Global Unions' Committee on Workers' Capital (CWC) is an international labour union network for dialogue and action on the responsible investment of workers' retirement savings. A joint initiative of the International Trade Union Confederation (ITUC), the Global Union Federations (GUFs), and the Trade Union Advisory Committee to the OECD (TUAC), the CWC has brought trade union representatives and worker-nominated trustees from across the world together since 1999. The pension fund board members who participate in the CWC network oversee the retirement savings of millions of workers.

For more information on the CWC: [info@workerscapital.org](mailto:info@workerscapital.org).