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From: Leonard Lopes <llopes@victorgroupllc.com>
Sent: Monday, March 29, 2021 10:57 AM
To: House Innovation, Internet and Technology Committee
Subject: MATCH GROUP - HOUSE H6055 --House Innovation, Internet, & Technology Committee -
Attachments: Apple's App Store fees are 'highway robbery,' says House antitrust committee chair - The Verge.pdf; THE VERGE - New North Dakota bill would force Apple to allow alternative app stores and payment systems - The Verge.pdf; Digital platform services inquiry - March 2021 report - Issues Paper.pdf

Clerk of the House IIT Committee:

In advance of today's hearing on the aforementioned legislation, enclosed please find related articles and reports to enter into the committee file.

Thanks
Lenny

The Verge articles

Australian Competition & Consumer Commission Report

Projo OP-Ed - Opinion/Rowley: Independent app developers deserve a fair shake
Opinion/Rowley: Independent app developers deserve a fair shake
Tyler Rowley

Through their control over the App Store, Apple wields an inordinate amount of power over their competitors.

Tyler Rowley of Lincoln is a co-founder of GoingOut.

A fair and free marketplace is the cornerstone of the American economy. It drives innovation, encourages competition, and ensures a level playing field so that everyone has an equal shot at success. Unfortunately for Rhode Island's burgeoning tech sector — particularly small- to medium-sized app developers — the current marketplace is anything but fair and free.

In this case it is not the government that has unfairly skewed the marketplace for app developers, but the anti-competitive practices of one of the world's largest tech companies, Apple. Through their control over the App Store, Apple wields an inordinate amount of power over their competitors, no matter how small or large a "threat" they pose to the company's bottom line.

In the land of the free, these kinds of monopolistic barriers to the success of independent app developers should not exist. It is time for a healthy dose of fairness and equal opportunity for all developers in the App Store.

As co-founder of GoingOut — a Rhode Island-based app aimed at facilitating and strengthening social connections between restaurants/bars and their patrons — I have dedicated years to developing our company which includes an iOS app. It has not been an easy road, but it is one we have traveled in order to finally see all that hard work come to fruition when we first launched in 2012.

I find it fundamentally unfair then that after all our efforts, we are forced to pay Apple their outrageous 30% fee on each and every purchase made through the GoingOut app. This transaction fee is far and away higher than what can be found in any other industry, and it puts small app developers like us at a significant competitive disadvantage as it represents a sizable portion of our revenue.

Apple has done nothing to add value to our app, but it is able to demand such hefty transaction fees because it knows that independent developers have no other choice but to use their App Store as a platform for reaching potential customers. If the entire marketplace for apps is controlled by one company — a company that is also developing apps of its own — then of course that company is going to flex its proverbial muscle in order to squash competition and elevate its offerings above those of its competitors.

The 30% app tax is just the tip of the iceberg when it comes to Apple's monopolistic, anti-competitive policies and practices. In fact, Apple regularly uses its control of the iOS operating system to ensure its products and features are featured more prominently than those offered by independent app developers.

No single company should have this much power over their competitors. Apple's dominance and abuse of power in the App Store is not the sign of a free market, but rather represents an error in the marketplace that must be rectified in order to ensure all developers have a fair shot at reaching their customers and growing their business. Put simply, small apps should have a chance to compete for customers on a level playing field without being gouged by Apple or worrying about them stealing ideas because they have so much control through the App Store.

I know this is an issue that many state legislatures around the country are starting to address, and I hope Rhode Island lawmakers will follow suit and work to restore fairness to the app marketplace by reining in some of the worst of the anti-competitive and monopolistic practices that has allowed Apple to bully and dominate independent app developers for far too long.

NY Times Op ed - States Are Right to Rebel Against Big Tech

<https://www.nytimes.com/2021/03/18/opinion/apple-google-app-monopoly.html>

States Are Right to Rebel Against Big Tech

Antitrust bills would dismantle Apple and Google's monopoly over the distribution of smartphone apps and entice companies to relocate to those states.

By Matt Stoller and Pat Garofalo

Mr. Stoller and Mr. Garofalo work at the American Economic Liberties Project, a nonprofit organization that researches monopolies and advocates deconcentration of power in economic markets.

March 18, 2021

As Congress continues its interrogation of monopolistic practices of technology companies, states are getting into the game. Among the first targets on their list are Apple and Google, which together command 100 percent of the market for smartphone operating systems. New bills introduced in several states would threaten the companies' dominance and represent an opportunity for state leaders to put fairness in commerce at the center of governance.

All apps that iPhone users download pass through Apple's app store, because Apple doesn't allow alternative marketplaces. Google uses its own store, which is called Google Play and is preinstalled on most Android phones, to give preference to its own apps over similar apps from competitors. While Google does allow alternative app stores, users must download them.

Both companies retain as much as 30 percent of the money consumers pay both for apps and for the purchases they make within those apps. (Credit card networks typically charge around 3 percent in transaction fees.) Apple made \$72 billion last year from app store fees alone, while Google Play earned Google \$39 billion, according to a research company called Sensor Tower. This week Google said it would reduce its commission for some app store sales. Both companies are targets of American and European inquiries into monopolies in the technology market.

Last fall Epic Games, the maker of the popular video game Fortnite, sued Apple after trying unsuccessfully to wrest control of consumer payments by adding its own direct payment system to Fortnite. Apple responded by removing the game from its app store, and a trial is scheduled to begin in May.

And now states are taking on the issue of payments for mobile phone software. Bills recently introduced in more than a half-dozen states, including Arizona, New York, Illinois and Georgia, would prevent Apple and Google from forcing developers to use the platforms' payment systems. Some of the bills have been backed by the Coalition for App Fairness, a nonprofit organization that opposes app store fees and was founded by technology companies including Epic Games and Spotify. With these bills, state lawmakers are directly challenging the market power of big tech, attempting to address through policy what could take years to achieve through antitrust cases.

Arizona's House of Representatives this month passed a bill that prevents providers of digital platforms from compelling consumers and software developers based in the state to use those platforms' payment systems. The measure was supported almost entirely by Republicans. Most of the state's Democrats sided with Apple and libertarians at Americans for Prosperity and the Goldwater Institute in opposing the bill, arguing that the state should not be involved in disputes between private businesses and that federal enforcers, not states, should regulate tech markets.

That libertarianism is at odds with the history of states using their powers to regulate commerce and protect marketplaces from corruption and monopolies. After all, states already use their powers to regulate utility markets, establish alcohol boards, oversee pharmaceutical distribution and provide oversight for other industries. Local regulation of corporate power predates the U.S. Constitution — the colony of Massachusetts capped the interest that lenders could charge on loans back in 1641 — and for centuries state leaders have maintained the tradition, challenging monopolies with regulations that kept local commerce open and vibrant.

States have antitrust laws because they have an interest in making sure that their local businesses, workers and consumers aren't steamrollered by large companies. Far from being an intrusion into business affairs or a usurpation of federal power, these bills ensure that local businesses can avoid private gatekeepers. With these bills, policymakers are providing local businesses with what they need: access to open markets.

These bills also create opportunities for economic growth, because they could help states persuade tech companies to relocate within their borders without resorting to the usual failed tactics of offering subsidies. States spend about \$40 billion annually — and that's at the low end of the estimates — trying to entice corporations to move. When Amazon was shopping around for a home for its second headquarters, states weren't accused of unnecessarily meddling in private businesses' affairs by trying to lure the company with lavish subsidies. Similarly, we hear no protests when states and cities throw tax benefits at tech companies. According to Good Jobs First, a research organization that tracks corporate subsidies, Apple and Google have each received more than \$200 million in state and local subsidies since 2015.

The idea that these measures could entice companies to relocate isn't theoretical. David Heinemeier Hansson, a co-founder of Basecamp, a software company in Chicago that has fought with Apple over its payment system, has said the company would like to move its operations to a state with such a law on the books.

This is an opportunity for states to spend no money in order to accomplish something they've been trying to do for decades using precious public resources: create new high-tech jobs and support small, innovative businesses by helping them escape the onerous terms imposed on them by Apple and Google. It turns out the secret sauce to economic growth is what state leaders have done for hundreds of years, which is to put fairness, not monopolies, at the center of lawmaking.

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