

The Rising Tide of Antitrust Investigations and Lawsuits Against Apple: App Developers May See a Wave of Changes

Tuesday, September 15, 2020

Overview

Investigations by DOJ and state AGs
into App Store policies

Congressional Big Tech hearings
and potential regulation

European Commission's ongoing
investigations

Private litigation against Apple

Introductions



Michael Tomasulo
Moderator

Partner
Winston & Strawn
+1 213-615-1848
MTomasulo@winston.com



Neely Agin

Partner
Winston & Strawn
+1 202-282-5688
NAgin@winston.com



Jeffrey Amato

Partner
Winston & Strawn
+1 212-294-4685
JAmato@winston.com



Peter Crowther

London Managing Partner
Winston & Strawn
+44 20 7011 8750
PCrowther@winston.com

TECHNOLOGY

Apple's easy ride from U.S. authorities may be over

The Justice Department and a coalition of state attorneys general are focusing on the company's iron-clad control of its App Store.

Jul 23, 2020 - Technology

Exclusive: Apple faces multi-state consumer protection probe

 Margaret Harding McGill

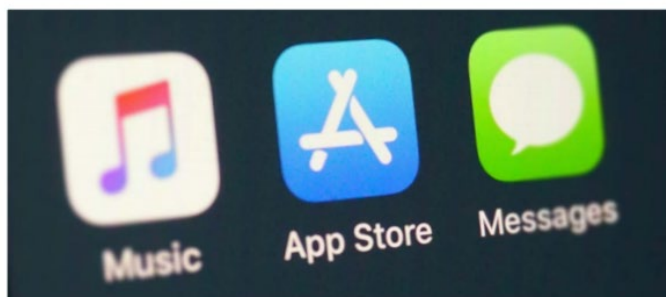


Analysis Group Report on the App Store

AG ANALYSIS GROUP

Apple's App Store and Other Digital Marketplaces

A Comparison of Commission Rates



July 22, 2020

Jonathan Borck, Ph.D.
Juliette Caminade, Ph.D.
Markus von Wartburg, Ph.D.

Support for this study was provided by Apple. The conclusions and opinions expressed are exclusively those of the authors.

Key Finding: “Apple’s App Store commission rate is similar in magnitude to the commission rates charged by many other app stores and digital content marketplaces.” (p. 2)

“[F]or their business model to be successful, digital marketplaces often have to rely on rules that prevent [developers] from free riding...” (p. 12)

Table 1: Commission Rates for Select App Stores

Google Play Store	▪ 30% (15% for subscriptions after 12 months)
Amazon Appstore	▪ 30% (20% for video streaming subscriptions)
Samsung Galaxy Store	▪ 30% (or otherwise agreed-upon)
Microsoft Store	▪ 30% on games ▪ 30% on all sales in Business and Education stores ▪ 30% for Windows 8 devices ▪ 15% otherwise
Apple App Store	▪ 30% (15% for subscriptions after 12 months)

Hearings

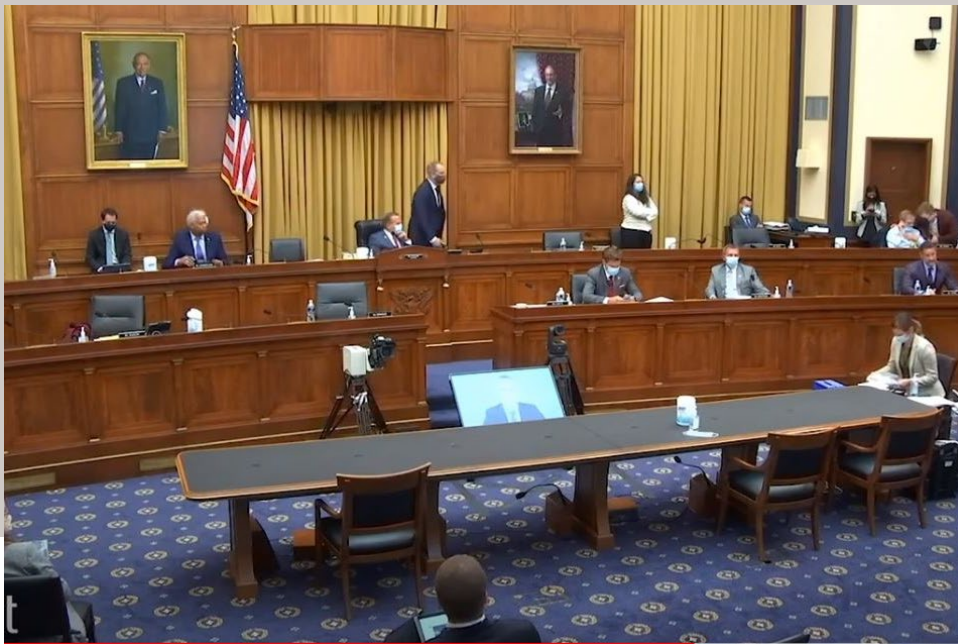
Online Platforms and Market Power, Part 6: Examining the Dominance of Amazon, Apple, Facebook, and Google

Subcommittee on Antitrust, Commercial, and Administrative Law

Date: Wednesday, July 29, 2020 - 12:00pm

Location: 2141 RHOB

Tags: *Antitrust, Commercial, and Administrative Law*



Antitrust: Commission opens investigation into Apple practices regarding Apple Pay



It appears that Apple sets the conditions on how Apple Pay should be used in merchants' apps and websites. It also reserves the 'tap and go' functionality of iPhones to Apple Pay. It is important that Apple's measures do not deny consumers the benefits of new payment technologies, including better choice, quality, innovation and competitive prices.

- Margrethe Vestager





Antitrust: Commission opens investigations into Apple's App Store rules

“

It appears that Apple obtained a ‘gatekeeper’ role when it comes to the distribution of apps and content to users of Apple's popular devices. We need to ensure that Apple's rules do not distort competition in markets where Apple is competing with other app developers, for example with its music streaming service Apple Music or with Apple Books.



”

- Margrethe Vestager

Facebook Response to EC Public Consultation on the Digital Services Act (DSA) (September 8, 2020)

“Like any app developer, we have faced challenges in the application of Apple’s policies and technical controls around in-app payments, gaming apps, log-in tools, and online advertising. In each category, Apple has made policy and enforcement decisions that privilege its own services and revenue streams to the detriment of others . . .”



“[I]t is well known that mobile games are the most lucrative category of mobile apps worldwide. . . . By largely prohibiting other developers from offering apps that enable consumers to access games not directly distributed through the App Store, Apple is ensuring that consumers on iOS can primarily purchase games and related services only from Apple, and not from other developers.”

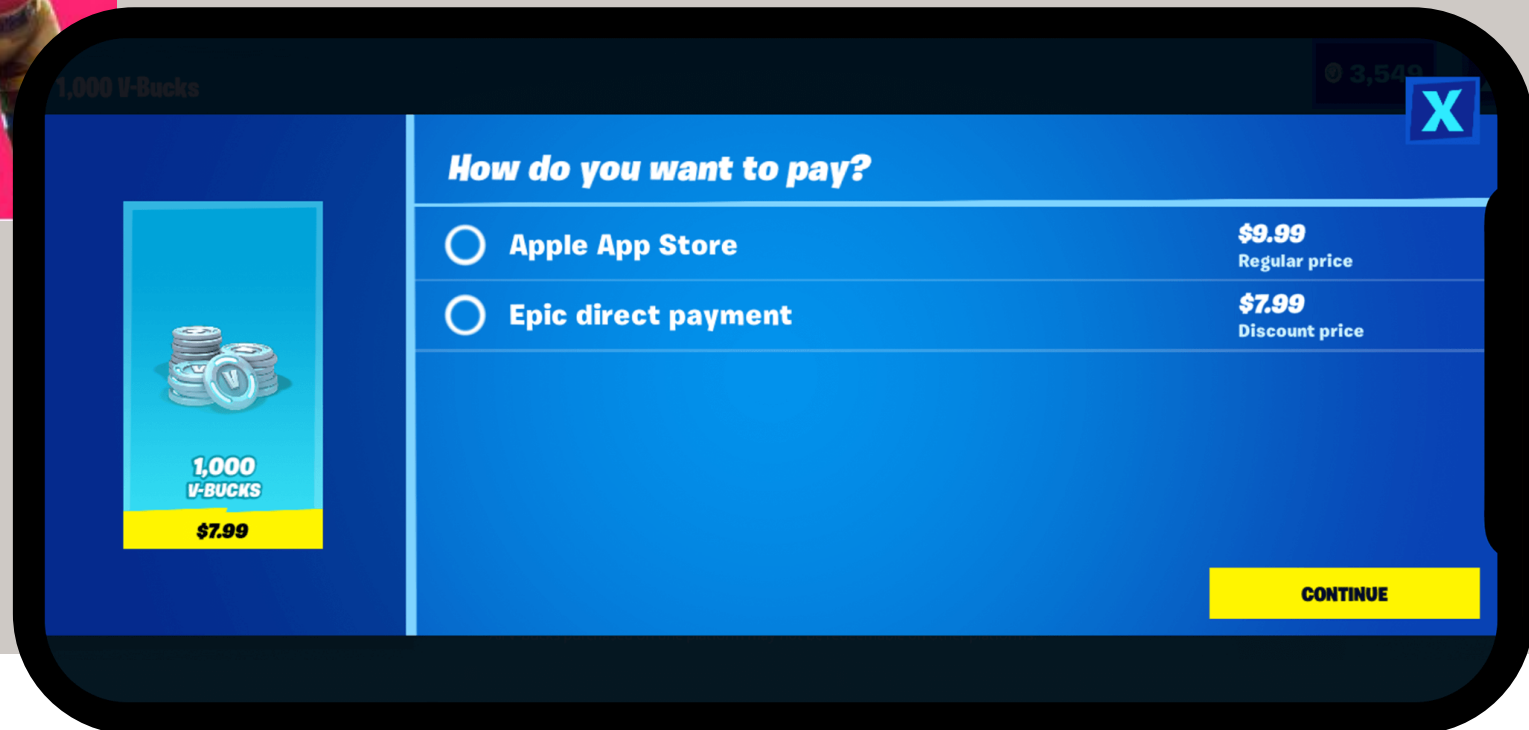
FORTNITE



ANNOUNCING EPIC DIRECT PAYMENT ON MOBILE

8.13.2020

By The Fortnite Team



Epic Games Inc. v. Apple Inc.

No. 3:20-cv-05640-YGR (N.D. Cal)

14	UNITED STATES DISTRICT COURT	
15	NORTHERN DISTRICT OF CALIFORNIA	
16		
17		
18	EPIC GAMES, INC.,	Plaintiff,
19		
20	vs.	Case No. _____
21	APPLE INC.,	Defendant.
22		
23		COMPLAINT FOR INJUNCTIVE RELIEF
24		
25		
26		

Epic brings this suit to end Apple's unfair and anti-competitive actions that Apple undertakes to unlawfully maintain its monopoly in two distinct, multibillion dollar markets: (i) the iOS App Distribution Market, and (ii) the iOS In-App Payment Processing Market. . . . Epic respectfully requests this Court to enjoin Apple from continuing to impose its anti-competitive restrictions on the iOS ecosystem and ensure 2020 is not like "1984".

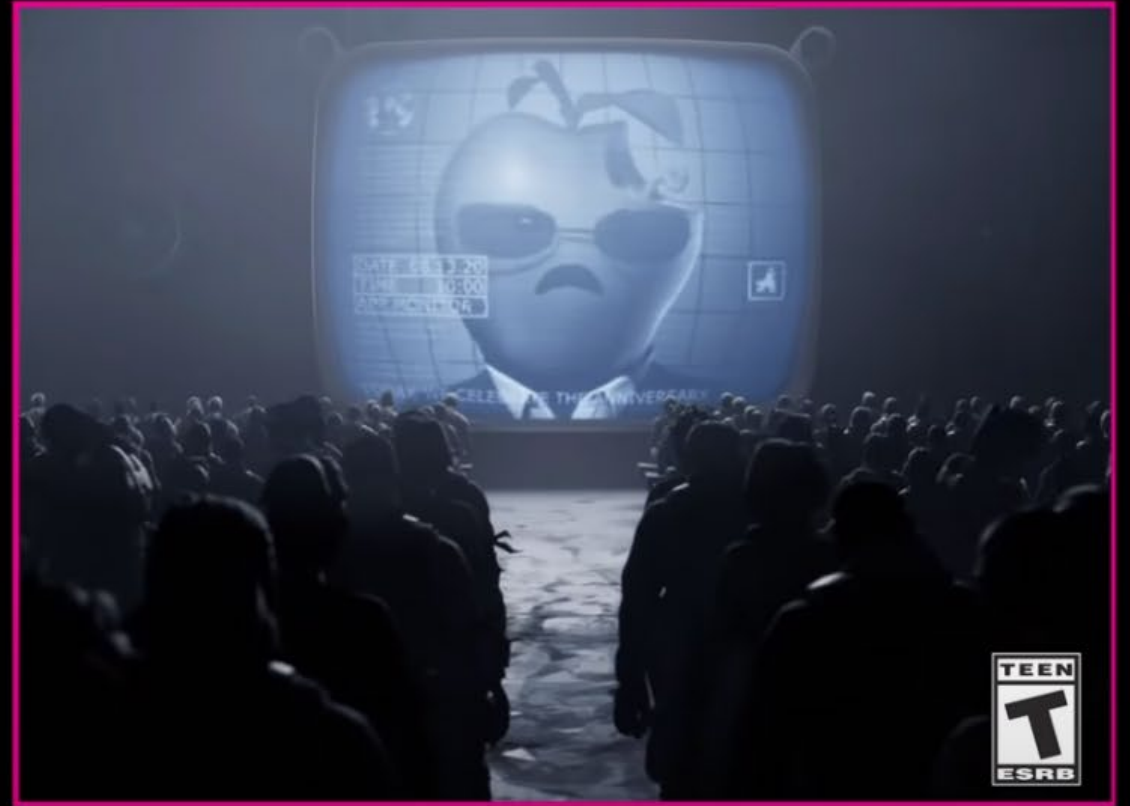
Epic fired the first shot in this dispute, and its willful, brazen, and unlawful conduct cannot be left unchecked. . . . This Court should hold Epic to its contractual promises, award Apple compensatory and punitive damages, and enjoin Epic from engaging in further unfair business practices.

15	UNITED STATES DISTRICT COURT	
16	NORTHERN DISTRICT OF CALIFORNIA	
17	OAKLAND DIVISION	
18		
19	EPIC GAMES, INC.,	CASE NO. 4:20-cv-05640-YGR
20		
21	Plaintiff,	DEFENDANT AND COUNTER- CLAIMANT APPLE INC.'S ANSWER, DEFENSES, AND COUNTERCLAIMS IN REPLY TO EPIC GAMES, INC.'S COMPLAINT FOR INJUNCTIVE RELIEF
22		
23	v.	
24	APPLE INC.	
25	Defendant.	
26		

#FreeFortnite Campaign



APPLE, 1984



EPIC GAMES, 2020



Cameron, et. al. v. Apple Inc.

No. 4:19-cv03074-YGR (N.D. Cal)

TECHNOLOGY NEWS JUNE 4, 2019 / 11:54 AM / A YEAR AGO

Developers sue Apple over App Store practices

Stephen Nellis

3 MIN READ



(Reuters) - Two app developers on Tuesday sued Apple Inc over its App Store practices, making claims similar to those in a lawsuit brought by consumers that the U.S. Supreme Court recently allowed to proceed.

In re Apple iPhone Antitrust Litigation

No. 4:11-cv-06714-YGR (N.D. Cal)

SUPREME COURT OF THE UNITED STATES

No. 17-204

APPLE INC., PETITIONER *v.* ROBERT PEPPER, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[May 13, 2019]

Thank You



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Partner
Winston & Strawn
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