



Coalition for APP FAIRNESS

October 5, 2023

TO: Global Competition Regulators, Global Competition Policymakers

Dear Competition Regulators and Policymakers,

As you and your colleagues around the world determine how to open mobile ecosystems to competition, using both new and existing powers, it is vital that: (a) genuine choice is created in the mobile app ecosystem for developers and consumers alike to choose which payment provider they would like to use; (b) Apple and Google cannot maintain their exorbitant and unjustified "service fee."

It is vital that ongoing and future efforts to end the abuse of mobile app monopolists build upon the work of regulators and policymakers in jurisdictions that have tried to tackle this problem and learn from the ways in which Apple and Google have flouted and circumvented pro-competition regulations and policies. To date, we have seen Apple and Google feign compliance in the following jurisdictions:

- **The South Korea Telecommunication Business Act:** While Apple and Google claim to comply with the law, the companies found workarounds and introduced a new 26 percent fee for using third-party payment systems, which completely undermines the spirit of the law. This fee makes the economic conditions of leaving their respective app store ecosystems untenable, particularly for small businesses, and as a result they continue to stifle competition in the marketplace.
- **The Dutch Authority for Consumers and Markets (ACM):** Apple's proposals to comply with ACM regulations were not sufficient; the company was repeatedly fined for violating where Apple cabined proposals to dating apps, and charged fees as high as 33% for alternative billing.
- **The U.K.'s Competition and Markets Authority (CMA):** The CMA is weighing whether to accept Google's proposed commitments to comply with regulations; however, Google's proposed "solutions" mirror those in South Korea. We know, therefore, that this proposal is sham compliance that will not foster competition in the marketplace.

Feigned compliance by both Apple and Google fail to address the following problems:

- Increasing the costs of services for consumers around the world;
- Stifling innovation by disincentivizing new products and services due to the high fee;
- Undermining developers that offer digital services and products via in-app purchases and subscription services, including the news industry and journalists;
- Maintaining [each gatekeeper's respective](#) monopoly on in-app payments – and by extension their ability to stifle competition – and leaving no space for new payments services to enter the market.



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Developers from these regions understand how insufficient this so-called compliance is.

"If we use third-party payment systems, we get hit with even higher fees than with Apple and Google. In the end, nothing changed," an executive of a Korea-based company told [Nikkei Asia](#).

And leading policymakers have spoken out against these proposals:

"Apple's conduct in the Netherlands these days may be an example. As we understand it, Apple essentially prefers paying periodic fines, rather than comply with a decision of the Dutch Competition Authority on the terms and conditions for third parties to access its App Store," [said](#) former European Union Competition Commissioner Margrethe Vestager.

Major jurisdictions around the world are now exploring solutions to address Apple's and Google's anticompetitive app store practices. In Europe, the European Commission is moving towards the implementation and enforcement of the DMA. In the UK, parliament is considering the Digital Markets, Competition and Consumers Bill, and in the United States there is the Open App Markets Act. As regulators and policymakers work to protect consumers from mobile app monopolists, they must not fall for sham compliance proposals that do nothing to achieve their stated goals of injecting competition into the marketplace.

Accepting proposals that don't bring true competition into the marketplace would implicitly endorse Apple's and Google's rights to charge a steep fee for a service they have not rendered and diminish attempts to meaningfully reform and establish fair competition in the mobile app ecosystem.

Thank you for your attention to this matter. We trust that you will take the appropriate steps to uphold the principles of fair competition and ensure compliance with the law in your respective jurisdictions.

Sincerely,

Rick VanMeter
Executive Director
Coalition for App Fairness