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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

January 9, 2018

Mr. Tim Cook
Chief Executive Officer
Apple, Inc.
1 Infinite Loop
Cupertino, CA 95014

Dear Mr. Cook:

I am writing regarding Apple's recent acknowledgment that it took steps to slow the processing performance of older iPhones, including the iPhone 6 and 6s. Last month, researchers at Geekbench reported their findings that users with older iPhones experienced lower-than-expected performance and that the problem is widespread and due, in part, to an iOS update that limits performance.¹

Despite longtime consumer speculation that Apple engaged in these practices, the company waited until shortly after Christmas to admit that, in fact, its software updates include features to throttle back processing performance. Apple stated that the purpose for slower processing speeds is to "[improve] power management during peak workloads to avoid unexpected shutdowns."²

Apple has denied the allegation that it engaged in "planned obsolescence" – the purposeful slowing of performance on older devices to get users to purchase new models³ – with respect to these iPhones. However, even if Apple's actions were indeed only intended to avoid unexpected shutdowns in older phones, the large volume of consumer criticism leveled against the company in light of its admission suggests that there should have been better transparency with respect to these practices. Moreover, Apple's proposed solutions have prompted additional criticism from some customers, particularly its decision not to provide free replacement batteries to affected consumers.

The Senate Commerce Committee has jurisdiction over consumer protection issues, including those with respect to consumer electronics. Consistent with the Committee's oversight responsibilities, I would like to understand Apple's rationale behind these software updates to throttle back processing performance, how it provided notice to its customers, and how the company plans to address the matter going forward. Accordingly, I request answers to the following questions.

¹ John Pool, *iPhone Performance and Battery Age*, GEEKBENCH, Dec. 18, 2017.

² Apple, Press Release, *A Message to Our Customers about iPhone Batteries and Performance* (Dec. 28, 2017).

³ *Id.*

1. Did Apple notify its customers before it released this software update feature to throttle back processing performance for its iPhone 6, iPhone 6S, iPhone SE, and iPhone 7 with iOS 11.2? If so, when and how did Apple notify its customers?
2. Did Apple offer its customers the option of declining the software update feature to throttle back processing performance? If so, how? If not, why not?
3. Did Apple release a similar software update feature to throttle back processing performance for earlier models, such as the iPhone 4, iPhone 5, and iPhone 5S? If so, when? Did Apple notify its customers before doing so? If so, when and how did Apple notify its customers?
4. Does Apple plan to release a similar software update feature to throttle back processing performance for newer phone models? What notice does it plan to provide to customers before doing so?
5. Has Apple tracked consumer complaints about processing performance that are likely to be attributable to this software update throttling feature? If so, how many such complaints has Apple received and how has Apple addressed such complaints?
6. How did Apple notify its customers regarding the option of replacing the iPhone battery?
7. Apple is reducing the price of an out-of-warranty iPhone battery replacement to \$29 for anyone with an iPhone 6 or later. In addition, Apple has issued an apology to consumers for the way it handled performance for iPhones with older batteries and how Apple communicated that process. How did Apple arrive at the \$29 battery replacement figure? Did the company consider alternative plans to address the issue, such as providing a replacement battery free of charge to affected consumers?
8. Has Apple explored whether consumers who previously paid the full, non-discounted price for a replacement battery in an effort to restore performance should be allowed to seek a rebate for some of the purchase price?

I look forward to receiving your written response as soon as possible, but by no later than 5:00 p.m. on January 23, 2018. In addition, please direct your staff to make arrangements to brief Committee staff on this matter. Thank you for your prompt attention to this request.

Sincerely,



JOHN THUNE
Chairman

cc: The Honorable Bill Nelson, Ranking Member