



June 22, 2021

The Honorable Jerrold Nadler, Chair  
The Honorable Jim Jordan, Ranking Member  
House Committee on the Judiciary

The Honorable David N. Cicilline, Chair  
The Honorable Ken Buck, Ranking Member  
House Committee on the Judiciary  
Subcommittee on Antitrust, Commercial, and Administrative Law

Dear Chairmen Nadler and Cicilline, and Ranking Members Jordan and Buck:

Apple has appreciated the opportunity to engage with the House Judiciary Committee and its Subcommittee on Antitrust, Commercial, and Administrative Law on our shared objective of ensuring that U.S. laws and Apple's business practices promote competition, foster innovation, and provide benefits and critical protections to consumers.

The App Store creates competition, and it is a place where all developers—no matter their size—can turn their passion and creativity into a thriving business. The App Store offers customers access to nearly 2 million apps, and it supports more than 2.1 million jobs across all 50 states. We are concerned that many provisions of the recent package of antitrust reform legislation would create a race to the bottom for security and privacy, while also undermining innovation and competition. We write today to provide a high-level overview of the harms these bills present.

**The Legislation Would Undermine Consumers' Ability To Choose Products That Offer State-of-the-Art Privacy And Security.**

- Consumers are not one-size-fits-all, and Congress should not mandate smartphones to be one-size-fits all, either. Apple offers consumers a choice of a smartphone that offers the best possible security, privacy and performance. The iPhone is uniquely suited to those who don't want to balance risk every time they download an app. Some customers might want to do that, but Congress should not force that model on everyone. Legislation that would mandate that Apple allow sideloading would prevent Apple from continuing to offer consumers this more secure choice, reducing competition and decreasing consumer welfare. Enclosed with this letter is a more detailed document that outlines why proposals to require the sideloading of software on Apple devices is detrimental to consumer privacy and security.
- Requiring Apple to provide developers all user data generated through the use of an app poses immense risks to privacy. For instance, when apps track a user without her knowledge, her data could be spread far and wide without her consent. Apple's App Store rules help prevent that. Consumers have a right to control their data; it is not Apple's role to give away data to developers eager to monetize it.

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- With cyberattacks on the rise, Congress should consider measures to increase, not decrease, digital security. Today, if an app surreptitiously collects user data, Apple is able to take steps to address that behavior—whereas current proposals would tie Apple's hands. Further, sideloaded apps can carry ransomware, or trick users into downloading fake versions of popular apps that can steal login credentials and spy on users. This legislation will make it easier for criminal actors to put iPhone users at risk.
- Parents have enough to worry about while protecting their children in the digital world, and Congress should not add to this burden by mandating that the iPhone be opened to less secure apps. Parents rely on Apple's secure ecosystem to guard against apps that would sell a child's data or expose a child to inappropriate content. In addition, proposals that target in-app purchasing would severely limit the effectiveness of child safety features such as "Ask to Buy" parental controls, purchase history, and Family Sharing. These features are critical for enabling parents to monitor sales to children.



### **The Legislation Would Not Promote Competition.**

- Of the nearly 2 million apps on the App Store, Apple offers approximately 70, and the vast majority of them are free. We face strong competition from very successful developers in every category in which we offer our own apps, from music to maps to weather.
- Apple's structural incentive is to promote more and greater quality apps and *facilitate* competition. We attract customers to the iPhone by continually improving its core features, including the App Store's many offerings. We support all developers, including those that compete with some Apple services, because innovation on the App Store is great for customers and attracts them to the iPhone. The record of success on the App Store for third party apps speaks for itself. We have no incentive to discriminate against developers and broad mandates against disparate treatment of apps at all could skew the competitive landscape on the App Store.
- Apple provides developers access to technology to create quality apps because better App Store offerings means greater customer satisfaction. Apple therefore only limits developer access to application programming interfaces if there is an independent compelling justification, such as safety or device performance. A good example of this is access to sensitive health data or to accessibility tools that can read emails aloud. Developers also rely on the App Store's protections. Apple works hard to ensure app safety, so developers can focus on building apps while benefiting from the iPhone's reputation for security. Congress should not force Apple to give unfettered access to core technologies that could be abused to harm consumers and put them at risk.

### **The Legislation Would Hamper Innovation.**

- Interoperability mandates that require companies to hand over their intellectual property to others severely burden platforms' incentives to innovate. This will allow third parties to free ride on Apple's investments and hard work, dampening the ability of platforms to create new products, services, and technology that benefit consumers. These mandates would make it difficult, if not impossible, for us to innovate in accessibility, health, and other sensitive areas.



- Consumers choose Apple products in part because they like the seamless interoperability between the hardware and the software that are specifically designed to work together. Moreover, Apple's device-based business incentivizes it to create quality apps and set high app standards, increasing competition in downstream markets. Overly broad prohibitions on vertical integration would also harm consumers. Such integration has greatly benefited device innovation, and it differentiates Apple from its many rivals in the smartphone market. The iPhone would not be the same product without integration of services, like iTunes, the App Store, or iMessage.

Apple is concerned that current proposals would harm consumer privacy, device security, and innovation. We urge the Committee not to approve the proposed legislation in its current form, and we look forward to engaging with the Committee going forward. We ask that this letter, and the attached document, be made part of the public record.

Respectfully,

A handwritten signature in black ink that reads "Timothy Powderly". The signature is written in a cursive, flowing style.

Timothy Powderly  
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