

Testimony for U.S. Senate Judiciary Committee
Subcommittee on Competition Policy, Antitrust, and Consumer Rights

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Madam Chair and Members of the Committee, thank you for your bold leadership in shining a light on – and advancing this important public debate – about the anticompetitive app ecosystem and specifically how Apple and Google use their monopoly power through their app stores to control the app ecosystem stifling competition and adversely impact developers, innovation, and consumers.

Match Group is a provider of online dating services with a stated mission of sparking meaningful relationships for every *single* person. In 2019, research showed that over 40% of all relationships start online — and then the pandemic hit. During that time, our platforms played a pivotal role in providing safe social connections, even when people were socially distanced. Despite the physical separation created by the pandemic, many new relationships and families formed through our apps.

At the same time, the pandemic provided Apple and Google the opportunity to double down on the stranglehold they have created over app developers and consumers alike through our smartphones. Think of the number of daily activities that not coincidentally now require apps, from banking to streaming and ebooks to online fitness classes — and the pandemic has only amplified and accelerated this need. Just ask the fitness app ClassPass, whose business went viral during the pandemic and then Apple came calling for their cut.

Apple and Google have used their monopoly-controlled smartphone platforms to redirect the meritocracy of the free, competitive, and innovative information superhighway — where the best ideas won and consumers voted with their traffic — to run primarily through the iron fist of their app store monopolies. They have systematically programmed users to seek out the “app for that” which has resulted in the fact that if you do not have an app, you might as well not exist.

Let me be clear: Apple and Google have established themselves as the only gatekeepers of the new mobile internet — using user data and app developers’ innovations, ideas and even income against them to bankroll the construction of massive tollways on the formerly free information superhighway. At the heart of this strategy to control both developers and consumers is the requirement that app developers use Apple’s and Google’s often inferior in-app payment services — think of a credit card processor — for which Apple and Google charge a 30 percent tax.

But don’t take my word for it. The late Apple CEO Steve Jobs devised this strategy. Back in 2010, Apple grew wary that it was far too simple for users to switch between iOS and Android devices because app developers were allowing users to buy services directly from them that could be readily accessed on either platform. His directive was simple: “Let’s force them to use our ... payment system.” He knew that once users paid through Apple — and not the app developer — they would be locked into Apple’s ecosystem, tying their purchases to their iOS devices and forcing app developers to hand over the lifeblood of their businesses — their customer relationships. This was the precise moment in time when Apple came up with its mandatory IAP policy. There is no mention by Apple of safety, security, or privacy. Just a desire to fight off competition by locking in users and developers.

Apple and Google will argue that because they each have an app store, there is no monopoly power. But the reality is that the app stores operate as side-by-side monopolies. They charge the same fees and

exercise the same unilateral control. Consider the last time you or anyone you knew actually switched from an iOS device to an Android one or visa versa. You may have a hard time because it's not common — and our research on our own apps confirms it.

But beyond the empirical evidence, let me share just two of the many experiences from our business that unequivocally demonstrate the monopoly power of these app stores:

Shortly after Google launched its app store, the Google Play Store, Google persuaded us to join the Android ecosystem under the false pretenses of an open platform, where we would not be required to use Google's payment processor or pay the 30% tax. Now, years after helping establish Google's app store monopoly by bringing our apps and our consumers to its Play Store, Google is reversing field, using its entrenched monopoly power over Android to change the rules on us — tying its in-app payment system to our access to the Play Store starting in September of this year.

Not to be outdone, Apple has been equally authoritarian with its monopoly power. A few years back, Match had entered into an agreement with mobile phone provider T-Mobile to offer a discount to T-Mobile users. This discount would be provided through the iOS "T-Mobile Tuesdays" app, by providing a discount code that would link to the recently launched Tinder website. When Apple learned about this arrangement, they blocked the version of the T-Mobile Tuesdays app, asserting that the link to Tinder's website violated T-Mobile's requirement to use Apple's in-app pay system. Think of it, Apple was so hellbent on maintaining their monopoly grip on Tinder's consumers and app that they blocked T-Mobile's app, forcing T-Mobile to break its contract with us."

Apple and Google are using their monopoly power to dictate how apps operate, how much they will be forced to pay and, in many cases, if they will even survive.

Senators, this is not curation, it is iron fisted, monopoly control. When two industry players have the power to set prices, exclude competitors, and control an entire market — destroying the business and livelihoods of others with the flip of a switch — it is a monopoly. This is the same behavior of the oil barons, the telephone giants, and the railroads before them. It is no wonder that so few companies have been willing to stand up and testify against these monopolies — would you take this risk if you were a small developer?

These monopoly activities harm both app developers and consumers in many ways, all of which have a corrosive impact on innovation and our economy; however, I ask the Committee to specifically look at the following:

1. **The app store "tax"** — Today, instead of "***there's an app***" for that, Google and Apple's practices could better be described as "***there's a tax for that.***" Both companies now levy a 30 percent tax on every digital transaction increasing costs on both consumers and developers alike. For Match these app store fees are our fastest growing and our single largest expense — soon eclipsing half a billion dollars annually. That's \$500 million dollars that could be going back into the pockets of everyday consumers or deployed to hire employees or invest in new innovations.
2. Apple's and Google's in app payment rules force users to hand over massive treasure troves of their most sensitive user data to Apple and Google, which these Tech Giants can use to enrich their own products, or develop their own competing digital services (nearly overnight) and charge 30 percent less than everyone else.

We have seen them do this again and again, from ebooks to streaming services and child safety apps to most recently fitness services. Apple and Google will tout the fact that 85% of the apps in the app store only pay the annual \$99 developer fee, and in fact, Apple and Google allow these other apps to use their own payments services. **If mandatory in-app payment was truly about security, it would stand to reason that every business would need to use it.**

3. **Safety is actually harmed in the current system.** Neither Apple nor Google have been willing to help us with even the most basic safety features. And because of Apple's and Google's stranglehold on consumers and their data, it's difficult for us to conduct even some of the most basic safety checks. For example, despite our multiple requests over the years, Apple and Google still allow underage users to download our apps, even when they know the individuals are under 18. Apple and Google actually make it harder for us to keep our users safe.

Perhaps most harmful and corrosive is the fact that these monopolistic practices are:

4. **Incentivizing the monetization of selling user data and reducing innovation** – Apple and Google essentially push developers to adopt a less privacy-friendly business model. Additionally, by removing competition in the payment space innovation is harmed. The app store in app payment structure incentivizes companies to operate more like social media where consumer data is the commodity and monetized. Match stands with members of this Committee who have been critical of this business practice.

When the veneer of their safety, security and privacy arguments shatters under the weight of scrutiny, Apple and Google respond that they built the platforms and should be able to decide what business models they use. Members of the Subcommittee, I submit that the railroad companies built the railroads. The steel companies built the steel mills. The power companies built the power lines. The telephone companies built the telephone lines. The creators of all of these incredible inventions each made the same argument at different times, but it did not justify monopoly rents then and neither should it today. Just because Apple and Google own platforms, does not give them the right as a matter of law to mandate exclusivity and restrict competition. Thank you, and I look forward to answering your questions.