

Question for the Record

Rep. W. Gregory Steube (FL-17)

House Judiciary Committee

Subcommittee Committee Hearing: Online Platforms and Market Power

Part 2: Innovation and Entrepreneurship

1. **Mr. Andeer, as I understand it Apple charges apps that provide digital content 30% with each transaction. If the app has to pass that cost onto consumers, are they able to tell consumers they can receive that service elsewhere like going to their website?**

We believe competition makes everything better and results in the best apps for our customers. We also care about quality over quantity, and trust over transactions. Our users trust Apple—and that trust is critical to how we operate a fair, competitive store for developer app distribution.

Like any fair marketplace, developers decide what they want to charge. We only collect a commission from developers when a digital good or service is delivered through an app. As noted during the testimony, approximately 84% of apps obtained through the App Store share no revenue with Apple. Developers also receive free marketing opportunities through our store design, including the new Today editorial feature, personalized recommendations, search tools, top lists and social marketing. All this helps to support the millions of successful apps on the App Store.

Outside of the App Store, developers communicate with their consumers in a variety of ways, and that is completely up to them. Developers can inform their customers where to purchase digital content from the developer, such as on the developer’s website, on social media or through advertising. App developers frequently use websites, social media and traditional (TV, radio, print) marketing, email ads and targeted ads, and referrals and partnerships with other businesses to promote purchasing through channels not related to the App Store. In response to such communications and marketing, consumers routinely purchase digital content from the developer outside of the App Store and then can access/use that purchased content inside the app—with Apple receiving no payment related thereto. In fact, some developers like Spotify and Netflix have their customers buy digital content subscriptions *only* outside Apple’s App Store, such as from Spotify’s or Netflix’s own website. In these cases, developers receive all of the revenue they generate from bringing the customer to their app. Apple receives no commission from supporting, hosting and distributing these apps.

The sole restriction on developers in communicating to customers the availability of alternative offers is that a developer not use Apple’s iOS ecosystem as a “free billboard,” or free recruiting tool to direct customers they have acquired through Apple to purchase content elsewhere for the purpose of avoiding Apple’s rightful commission. The prohibition on developers promoting, *via* the App Store, transactions outside the

App Store is no different than the policies of virtually any other retailer, both brick-and-mortar or online. These anti-circumvention rules, to prevent free-riding, are common.¹ No one would expect or demand that a brick-and-mortar retail store be required by a wholesaler to hang a sign on the display of certain goods directing customers to a different store to spare the wholesaler any fees charged by that retailer, and no online store should be held to a different standard.

- 2. As you explained to that 30% tax becomes 15% in the second year of the subscription, is the app able to tell consumers of the lower fees in the second year within their app? Can they explain that the app service could be cheaper elsewhere outside of the app?**

The App Store's commission is not a "tax." It reflects the value of the App Store as a channel of distribution for developers and the costs of running the store. Apple established its 30% commission when it launched the App Store in 2008. This commission represents a considerable cost savings for developers when compared to physical distribution. It was also much lower than the 50%–70% that was then typically paid for the digital distribution of software. The App Store's revenue-sharing model was much more favorable to developers and ultimately led to a lowering of prices for the distribution of digital content across the industry. Apple's revenue-sharing model is now the industry standard and consistent with the practices of other digital, as well as brick-and-mortar, marketplaces.

The App Store has been a significant factor in democratizing software development by reducing barriers to entry to the benefit of consumers, competition and innovation. The ease of use, the low up-front cost of distribution, investments in software tools and Application Programming Interfaces, have benefitted all developers—and independent and small developers get immediate access to hundreds of millions of consumers in 155 countries and do not have to invest significant resources to distribute through the App Store. All of this is made possible by Apple's business model.

Developers are able to advise consumers of lower fees in the second year of a subscription, but many choose not to do so and have not passed any cost savings onto their customers. For example, Spotify has repeatedly attempted to attribute its in-app pricing decisions to Apple, yet Spotify has never passed on the benefits of Apple's lowered commission onto Spotify subscribers. When Apple lowered the commission from 30% to 15% for subscriptions renewals for the approximately 680,000 Spotify

¹ For example, the Samsung Galaxy App Store states that the developer "shall not use customer information obtained from the Services," such as Samsung's app store, to sell or distribute content "without using the Services or STORE." The Roku Store, which serves the popular TV-connected console/digital media player as well as the smart TV (Roku TV), has similar rules for developers, stating: "you will not (a) use any alternate billing service within your Application, (b) direct end users, via messaging that appears in your Application, to use alternative billing services, or (c) otherwise directly or indirectly encourage end users to purchase access to your Content other than through the Platform." Other online marketplaces that bring buyers and sellers together have similar policies to ensure that businesses do not free-ride on the marketplace's investments.

Premium subscribers that Spotify acquired through Apple's App Store, Spotify continued to charge those subscribers \$12.99 a month, same as before.