



February 17, 2020

The Honorable Jerrold Nadler, Chairman
The Honorable Doug Collins, Ranking Member
Committee on the Judiciary
The Honorable David N. Cicilline, Chairman
The Honorable F. James Sensenbrenner, Jr., Ranking Member
Subcommittee of Antitrust, Commercial, and Administrative Law
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515-6216

Re: The Committee's January 17, 2020 Field Hearing on Online Platforms and Market Power

Dear Chairman Nadler, Ranking Member Collins, Chairman Cicilline, and Ranking Member Sensenbrenner:

Thank you for your continued work to promote American innovation, entrepreneurship and the robust competition that propels our economy forward. In the spirit of continuing that dialogue, I write regarding the Committee's January 17, 2020 field hearing concerning *Competitors in the Digital Economy*. The hearing touched in part on the App Store, which has become a thriving and competitive digital ecosystem that helps customers discover new apps and creates new business opportunities for developers.

Since Apple invented the iPhone and launched the App Store, we have worked tirelessly to help American developers reach customers around the world. The App Store has democratized software development, reduced barriers to entry, and revolutionized distribution – all while protecting customer privacy and data security. Our teams support developers every day by providing new app development tools, helping to market their innovations and protecting the security of customer financial transactions. We're very proud to provide a curated experience for our customers, in which every new app and every update are reviewed to ensure they conform to our strict guidelines.

Today, the app economy is responsible for more than 1.9 million jobs across all fifty states and has earned developers of all sizes more than \$155 billion from selling digital goods and services on apps distributed in the App Store. We continue to invest in our developers' success with training programs like the Apple Developer Academy, Apple Entrepreneur Camp, and the Everyone Can Code curriculum, which has helped millions of students bring their ideas to life.

Every week, hundreds of millions of customers visit the App Store and engage with the innovations of hundreds of thousands of developers. The vast majority of these engagements have helped customers globally communicate, learn, express their creativity and exercise their ingenuity. Indeed, only a handful of developers have raised concerns about aspects of our terms and conditions. Sometimes those concerns are based on a misunderstanding of our rules and policies, and other times, those complaints may be driven by a developer's specific commercial interests. Regardless, our true north has always been to provide customers with the very best experience when using our products. In service of that core principle, we would like to respond to some of the assertions made at the January 17 hearing.

BaseCamp Co-Founder Mr. David Hansson testified that Apple charges third-party developers 30% for "payment processing" on sales generated within their apps "for years on end."¹ That assertion is not accurate. Apple's commission is not a payment processing fee: it reflects the value of the App Store as a channel for the distribution of developers' apps and the cost of many services – including app review, app development tools and marketing services – that make the App Store a safe and trusted marketplace for customers and a great business opportunity for developers. Second, there are several ways a developer can launch a product on the App Store that do not require any commission be paid to Apple at all. Over 80% of the apps on the App Store do not share *any* of their revenue with Apple. Apple does not receive a commission when developers offer apps for free, or when developers offer apps that generate revenue from in-app advertising or selling physical goods or services. Apple also does not charge third-party developers for reader apps – like Spotify or Netflix – if users purchased or subscribed to the developer's content outside of the app. Third, even for subscriptions purchased through an app, developers are only charged a 30% commission for the *first year* of a subscription. In the second and subsequent years, Apple only receives a 15% commission on subscriptions purchased through the App Store. We did not want to leave the committee with the mistaken impression that Apple collects a 30% commission from developers "for years on end."

¹ *Online Platforms and Market Power, Part 5: Competitors in the Digital Economy, Before the H. Subcomm. on Antitrust, Commercial, and Admin. Law, 116th Cong. at 15 (2020)* (testimony of David Heinemeier Hansson, Co-Founder, BaseCamp, LLC) (citing an unofficial Congressional Quarterly transcript).

Tile's General Counsel Kirsten Daru also testified that Apple's most recent iOS 13 update restricts users' ability to continuously share their location data with third-party apps, like Tile.² Some clarification is important here – iOS 13 did not restrict applications' ability to access location data. We believe our users have a right to know when an app uses their location data before they decide to share it indefinitely. iOS 13 makes clear to users when their location data is being accessed by an app and gives them more control over whether or not they wish to share that data. Previous versions of iOS already prompted users to approve the use of their location data, including when the app was running in the background. Now, they are prompted to authorize the use of location data when the application first attempts to use continuous location tracking in the background after a user is no longer actively using the app. In addition, when a user authorizes an app to continually access their location data, iOS 13 periodically reminds the user when an app uses that permission or changes its amount of use.

Stronger privacy protections may not be in everyone's business interest, but they are in the interest of every person with a smartphone. These changes in iOS ensure that users concerned about their data privacy can more easily understand and control when apps access their location data. We urge lawmakers to evaluate the iOS 13 updates on their merits: improving users' understanding of how their data is used and allowing users to limit the amount of data companies can collect or sell.

We also recognize that our customers rely on their Apple devices in their daily lives, and they should be able to protect, secure and locate them when they are lost or stolen. Customers can find their devices using Apple's "Find My" feature – which was first introduced in 2010, well before Tile's founding – to help users locate their Apple device or remotely secure or wipe its data. Unlike Tile and many other apps that access sensitive user location data, "Find My" stores user location data *locally* on the user's iPhone, and Apple only transmits the location upon the user's request. In contrast, some third-party apps, like Tile, collect and store user information externally. In a world where selling people's personal data is a multi-billion-dollar industry, storing users' location data locally provides enormous benefit to our users' security and privacy. Ensuring users turn on "Find My" upon activation is essential: customers assume they will have the ability to immediately locate their newly purchased devices should they be misplaced or stolen. Removing this functionality would make our users less secure and their location information more vulnerable to hackers trying to steal their data and companies trying to sell it.

Finally, some witnesses appeared to suggest that Apple operates its business, including through the App Store or Apple's iOS updates, in order to hurt third-party developers.³ This couldn't be further from the truth. In fact, we have always believed that the availability of a wide variety of high-quality third-party apps in the App Store only

² *Id.* at 17 (testimony of Kirsten Daru, General Counsel, Tile).

³ *Id.* at 17, 43 (testimony of Kirsten Daru, General Counsel, Tile, and David Heinemeier Hansson, Co-Founder, BaseCamp, LLC).

adds value to, and increases the desirability of, Apple devices. Ever since we created the App Store, we've embraced competition as the best way to help our users access the best apps – even when those apps compete directly with our own. Our apps compete with third-party developers' apps across every category, and in many cases, the developers' apps are more successful. Nonetheless, we work closely with developers to ensure their apps are safe, functional and easily accessible for our customers.

Apple respectfully requests that this letter be included in the official record of the Committee's January 17, 2020 hearing. Thank you for your work to promote competition and innovation in the digital marketplace, and we look forward to continuing to engage with the Committee on these important issues.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kyle Andeer', written over a light blue horizontal line.

Kyle Andeer
Vice President, Corporate Law &
Chief Compliance Officer
Apple Inc.