Competition Principles for a Thriving App Economy

Small businesses in the app economy are growing and thriving in every state because they maximize the resources at their disposal, including the robust software distribution services and options available now. At the same time, regulators and policymakers are taking a hard look at "Big Tech" while raising concerns about competition in digital marketplaces. This scrutiny has put a spotlight on the app development community and our relationship with the main app stores like Apple's App Store and the Google Play store, but also platforms like Roblox, Epic Systems, Valve, and Nintendo. The main app stores link to mobile operating systems to form two-sided software platforms, the trusted marketplaces that connect app companies with millions of potential clients and customers across the globe. **While discussions have included "small developers" in the abstract, policymakers must understand that App Association member interests do not align with the largest companies on the app stores seeking to lower their own distribution costs.**

Unfortunately, a tiny subset of dominant app makers is lobbying for two bills that would shift distribution costs down to the smallest app makers: the American Innovation and Choice Online Act (S. 2992 / H.R. 3816) and the Open App Markets Act (S. 2710 / H.R. 7030). The bills would make it impossible for platforms to provide the services that benefit truly small businesses on the app stores. What's worse is that they would impose permanent prohibitions on an ever-shifting market, forever limiting the distribution options of App Association members, regardless of which companies are next in line to assume the "Big Tech" mantle. America Online and IBM were commonly perceived as permanent platforms in the early 2000s, but our member companies know that a prescription written for those businesses would be ill-suited for today's app ecosystem. Critically, the bills also fail to strike a reasonable balance between consumer protection and competition, effectively dismantling the privacy and security frameworks protecting mobile devices.

Ultimately, mobile app stores represent one of an array of distribution options for app makers, and they provide a bundle of services, including:

- Customer trust in the marketplace

- Immediate distribution to hundreds of millions of customers across the globe

- Marketing through the platform

- Platform-level privacy controls

- Assistance with intellectual property (IP) protection

- Security features built into the platform

- Assistance with foreign tax jurisdictions

- Developer tools, including accessibility features

- Access to hundreds of thousands of application programming interfaces (APIs)

- Payment processing

Congress and software platforms should focus on the following priorities to enhance competitive prospects for App Association members:

For Congress

- **Oppose S. 2710/H.R. 7030 and S. 2992/H.R. 3816 and proposals like them.** These bills are designed to advantage the largest companies selling digital-only goods and services on the app stores while shifting the costs of maintaining the app stores down to the smallest sellers like App Association members. The bills would also prohibit privacy and security measures the app stores take to maintain a trusted marketplace, at a time when App Association members are seeking privacy and security requirements.

- **Support federal privacy and data security legislation.** For years, we have been advocating for Congress to enact an overarching privacy and data security framework that applies across all 50 states. Consumers must trust that app makers are collecting and processing their data responsibly and that these activities are undertaken in a secure mobile ecosystem. A federal privacy law that requires covered entities to take reasonable security measures and to honor consumer rights to access, correct, delete, and transfer personal information, with strong enforcement, would increase the trust value of mobile app stores and alternative methods of software distribution like the open internet for app developers.

For Mobile Software Platforms

- **Developers want more transparency.** Our member companies pay a fee to platforms for developer services, and they expect those services to meet their needs. Transparency should be a priority in a couple of key areas:

  o In the review process. When a developer submits software for review, app stores should be transparent about how the developer can meet the app stores' requirements. Conversely, app stores must also clearly explain why certain apps are rejected and ensure the developer understands how to correct mistakes that lead to rejection.

  o For any changes to guidelines. Some developer guideline updates are self-explanatory. But in many cases, changes to the guidelines can fundamentally alter the kinds of disclosures or relationships developers can have with their clients and consumers. For example, Apple's introduction of Privacy Nutrition Labels helped simplify privacy communications between developers and consumers but raised new questions for app makers trying to understand how to properly disclose under the new framework. Updates like this must come with developer assistance and transparency.

- **Developers want responsive developer services.** When a member company spots a competing app pumping up their ratings with fake reviews, usually it's a violation of the app store guidelines that should be corrected. App makers want quick resolution in cases like this, which requires substantial investment by mobile platforms in personnel and technology. Similarly, robust initial app reviews that strictly reject untenable privacy and security risks are important for app maker success.

  o Proposals like S. 2992 / H.R. 3816 and S. 2710, / H.R. 7030 which would prohibit platform-level quality measures like these, would obviously undermine app makers' ability to rely on them.

For Mobile Software Platforms and Congress

- Preserve access to global markets and low barriers to entry. By offering trusted marketplaces for app makers to distribute their products and services globally, mobile software platforms contribute substantially to market conditions with low barriers to entry for entrepreneurs from diverse backgrounds to achieve global success.

  o Congress should avoid proposals like S. 2992 / H.R. 3816 and S. 2710 / H.R. 7030, or otherwise intervening in a way that shifts distribution costs down to smaller app makers while raising barriers to entry.

  o Platforms should increase support for the smallest developers that need the most help deciphering app store guidelines, protecting consumer privacy, and other software distribution challenges.