

January 31, 2022

Dear Senators,

We write to urge you to support passage of the *Open App Markets Act* in the Senate Judiciary Committee.

Approximately 99 percent of smartphones globally run on just two operating systems: Apple iOS and Google Android. Gatekeeper control over these two operating systems and their app stores allow these two companies, Apple and Alphabet (Google), which have a combined market capitalization of more than \$4 trillion, to exclusively dictate – without checks and balances – the rules of the road for app developers. This monopoly power stifles innovation and competition, hurts consumers and small businesses, and creates an unequal playing field where some app developers are required to pay a 30 percent tax.

The *Open App Markets Act* will inject needed competition into the app market and remove a barrier to entry for small developers. Furthermore, consumers will have more choices and enjoy lower prices.

We believe the argument to support the legislation is compelling, but Apple and Google will not go quietly. Over the coming days, the Big Tech Industrial Complex – which includes various think tanks, academic centers, and advocacy groups – will be flooding the airwaves and your inboxes with fear mongering messages about how the world will end if Congress passes the *Open App Markets Act*.

We've seen this movie before. The Big Tech lobby – led by Apple and Google – uses the same playbook every time Congress is on the verge of taking action against them. They call the legislation rushed. They say it hasn't been debated. Then they roll out a long, fancy blog post full of language meant to distract and deceive. Then they organize their special interest groups and lobbyists to call your office. They prop up and parade vendors as business owners in your state to be the face of Big Tech's plight. Then they pay millions of dollars to advertise on TV, radio, and social media platforms in your states to put pressure on you and to try to scare your constituents.

You may have already seen ads from one of the Big Tech front groups laughably claiming that opening Big Tech to scrutiny is a win for our international adversaries – including China. It is Apple, after all, that [signed an agreement](#) with Chinese Communist Party officials reportedly

worth more than \$275 billion – with Apple promising to do its part to develop China’s economy and technologies. Apple [reportedly](#) uses enslaved Uyghur labor and has gone so far to actually lobby the Congress against legislation banning forced labor. Not to be outdone, Google has [gone out of its way](#) to disrupt U.S. military might by pulling out of the Pentagon’s Project Maven, and U.S. Marine General Joseph Dunford, then-chairman of the Joint Chiefs of Staff, said in sworn testimony before the Senate Armed Services Committee that Google [provided](#), “a direct benefit to the Chinese military.”

None of these tactics are new. This is what Big Tech does when they get their hand caught in the cookie jar. They’re desperately clinging to power, but they know their time is almost up.

As you study the legislation, you will hear misleading and outright false talking points being touted from the bill’s opponents. We wanted to take the opportunity to push back with facts.

The opponents of this bill will argue the legislation to regulate Big Tech is being rushed without debate. That is obviously false. You know better than us because you have been present in multiple Judiciary Committee meetings, and possibly other relevant committees, listening to witness testimony about the need to promote more competition in the tech marketplace.

The opponents will claim that user privacy and security will be threatened if the legislation passes. Wrong again. Apple and Google argue that by having a singular app store on their operating systems, it protects against threats to user security and privacy. The reality is the app stores do not provide security, the smartphones themselves control security and privacy, all while the app stores fail to thoroughly curate their platforms against rampant scams despite charging excessive fees in the name of security and privacy investment.

Opponents will argue that every app developer is treated equally and the new legislation will hurt competition. However, Apple [imposes](#) a 30 percent tax on a large number of purchases in the App Store, but makes arbitrary distinctions as to which apps are not charged this tax, which creates a two-tiered system. Here’s how: Apple gives preference to their own apps because they impose a 30 percent tax on apps that compete with Apple’s apps. Apple also cuts backdoor deals with certain Big Tech companies – including Uber and Amazon – who are not charged the tax while small developers are forced to pay the tax or are unable to afford the entry fee. This creates a marketplace that preferences the big and the powerful, while small businesses are shut out.

It is because of the orchestrated app store duopoly that Parler, the free-speech social media upstart previously valued at over \$1 billion, [could be removed](#) with immediate effect from Apple and Android app stores as a way to punish conservatives seeking an alternative to fellow Big Tech giants Facebook and Twitter.

The bottom line is that the current system is rigged. Some app developers get special treatment from the monopolists, others are forced to pay a 30 percent tax, while others have a massive barrier to entry. Meanwhile, consumers are left holding the bag to pay higher prices with less choice. It's time to bring competition back into the market. The *Open App Markets Act* will help make it happen.

We hope you will support this critical legislation.

Respectfully,

Terry Schilling  
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