



Google LLC
1600 Amphitheatre
Parkway
Mountain View, CA 94043

650 253-0000 main
Google.com

February 2, 2022

The Honorable Richard Durbin
Chairman
Committee on the Judiciary
711 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
135 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Durbin and Ranking Member Grassley:

On February 3rd, the Senate Judiciary Committee will consider S. 2710, the Open App Markets Act. We are writing to convey our serious concerns with this version of the legislation. We're concerned that the bill would pose serious unintended consequences by depriving consumers of choice, exposing them to new security risks, and picking winners and losers in the app marketplace. Here's more detail on how this legislation could harm American consumers.

How Android Promotes Consumer Choice and Promotes Security and Privacy

We built Android as a free and open source operating system. Consumer choice has always been core to Android, and we have long worked to provide consumers and developers more flexibility. For example, today, people can download apps from multiple app stores on Android devices, and developers can even make their app available for download outside of an app store. Plus, developers who distribute content on Google Play fully control what they charge customers, and have the option of offering multiple payment methods – from credit and debit to PayPal, gift cards and more.

Practically all computing devices in the world, including the PCs and laptops that run Windows and MacOS, enable users to download and use software from the web, or from alternative app stores. Most Android devices have more than one app store installed by default and these app stores provide people with a safe experience that gives them choices about how they want to shop for apps. If a user chooses to download an app from a website, Google Play Protect, our malware scanning service, will warn them of potential risks, or in some cases prevent installation altogether. Displaying security alerts like these is a common sense step taken by most platforms, including Windows and MacOS, that enables users to choose where to get software.

There's no evidence that these choices make users less safe. To the contrary, no platform keeps more consumers safe on their devices than Android. Each day, we scan over 100 billion apps, and each year, we stop nearly 2 billion attempted malware installations from non-Google Play sources before they occur.

The open Android ecosystem has provided billions of people with access to their favorite smartphone apps, enabling them to communicate with friends, stay informed, and have fun, regardless of whether they have a device that costs \$10 or \$1,000. They should be able to [choose](#) where they download the apps they use every day—whether it's Google Play, Samsung's Galaxy Store, Amazon Appstore, or directly from developers. App stores should innovate on user privacy and security to compete and attract users.

Security experts at Google, other major technology companies, and across the security research community, work together to continually strengthen the layers of Android hardware, OS, and app security that keep people safe. On Android, user safety does not come at the expense of user choice.

Unsafe Billing Alternatives

As part of our work to make Android a safe and flexible operating system, Google Play is our vision for what a safe app store looks like. Our machine learning models and techniques enable us to identify and reject 99% of apps with abusive or malicious content before anyone can use them. In 2020, fewer than 0.12% of Android users installed a potentially harmful app from Google Play. That year, we banned 119,000 malicious and spammy developer accounts and prevented 962,000 policy-violating app submissions from getting published to Google Play.

We also protect people's in-app purchases through multiple layers of security on Google Play – and in particular, through our payments system. Yet this legislation puts that at risk. It could seriously degrade security within Google Play leaving consumers with no choice and potentially *forcing* consumers to share their credit card and other personal information with unvetted third-party payment systems. This could leave people vulnerable to bad actors seeking to engage in scams and fraud.

Unfortunately, the pending legislation could actually undercut the consumer choice built into Android's model, and prevent consumers from even having the option of using Google Play's payment system for in-app purchases. This could create major inconveniences for consumers:

- Requiring people to type in their credit card information for each new app,
- Blocking access to the [parental controls](#) built into Google Play's payment service that keep kids from running up bills on in-app purchases,
- Making it harder to manage and track purchases across apps,
- Complicating the process of getting [refunds](#) quickly and simply,
- Creating major barriers to using rewards (like Google Play Points) and gift cards, and
- Removing an easy way to cancel unwanted subscriptions.

In other words, this legislation would strip Americans of the choices available to consumers everywhere else in the world, even in countries that have [passed similar regulations](#) but done so in more flexible ways.

Exempting the Multi-billion-dollar Gaming Console Industry

This bill would also create an unlevel playing field. Following lobbying from major market players, it singles out mobile app stores but doesn't apply to the rapidly growing gaming console industry. This is despite the fact that consumers increasingly play the same games across [multiple devices](#). Game consoles aren't just for games either. As far back as 2017, the most popular app on the Xbox [wasn't a game at all](#)—it was Netflix. As businesses, consoles operate the same way as mobile app stores and require [similar developer fees](#) for in-app purchases.

Many in the industry have pointed out that games are online content that people access across many different devices. Microsoft's CEO of Gaming recently [admitted this](#):

"I think gamers play games, they don't play devices. I've said that before this deal and our whole strategy has been built around, allow players to play the games that they want on the screens they want with the community they want, that's been our strategy. The idea that there are mobile games and then there are PC games and then there are console games, for me, died about seven, eight years ago."

There is no reason that similar rules shouldn't apply across all content distribution platforms. Yet in exempting gaming while undermining existing mobile businesses, this legislation picks winners and losers, advantaging a small group of influential companies at the expense of consumers.

Harm to Consumers

We recognize and support the goal of ensuring app stores are providing openness and flexibility to consumers and developers. We're committed to engaging in these discussions, and recently released a set of policy [principles](#) that we believe would spur innovation, maintain security and expand user choice across the ecosystem. But as written, this legislation would create unintended consequences and unnecessary security risks for the millions of Americans who use Google Play each day.

We strongly urge the Committee to consider how this legislation would harm consumers and oppose its passage in its current form.

Sincerely,



Mark Isakowitz
Vice President
Government Affairs and Public Policy, U.S. and Canada

CC:

The Honorable Amy Klobuchar
Chair, Subcommittee on Competition Policy, Antitrust, and Consumer Rights Committee on the
Judiciary
425 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Richard Durbin

The Honorable Chuck Grassley



The Honorable Mike Lee

Ranking Member, Subcommittee on Competition Policy, Antitrust, and Consumer Rights

Committee on the Judiciary

361A Russell Senate Office Building

Washington, D.C. 20510

The Honorable Richard Blumenthal

706 Hart Senate Office Building

Washington, D.C. 20510

The Honorable Marsha Blackburn

357 Dirksen Senate Office Building

Washington, D.C. 20510

Page 4
The Honorable Richard Durbin
The Honorable Chuck Grassley

Google