Time to Play Fair: How Spotify, Tech and Policymakers are Combating Apple's Anti-Competitive Practices
Spotify: For the Record

Neil Curry [00:00:04] The chorus of voices calling for a level playing field in the digital economy has grown ever louder in recent weeks.

Lea Palmieri [00:00:12] Consumer groups, startup entrepreneurs and app developers have joined Spotify and legislators around the world in expressing concern about the anti-competitive practices of Apple's App Store.

Neil Curry [00:00:24] The tech giant maintains a monopolistic control over its App Store, effectively acting as a biased Internet referee, deciding the rules of the game and who can play while favoring its own team at every turn.

Lea Palmieri [00:00:37] On this special episode of Spotify: For the Record, we'll hear from entrepreneurs who risk retaliation by daring to speak out.

Neil Curry [00:00:45] We'll meet the policymakers determined to stop them from stifling innovation.

Lea Palmieri [00:00:50] And four years after Daniel EK first called for action, the Spotify CEO explains why it's a critical moment to prevent the choking of creativity and consumer choice.

Neil Curry [00:01:13] I'm Neil Curry in London.

Lea Palmieri [00:01:15] And I'm Leah Palmeri in New York City.

Neil Curry [00:01:17] At the core of the complaints are that Apple uses its monopolistic position to force businesses to use their payment system while taking a 30% cut of digital sales. At the same time, they prevent companies from communicating with their customers—and gather data on their competitors, which can be used against them.

Lea Palmieri [00:01:37] Spotify is among a diverse group of startups, app developers, and platforms who are calling for change. In 2020, they formed The Coalition for App Fairness together with more than 60 names such as Epic Games, Deezer, Match, Group and Proton, who are making their case globally. Another member of the coalition is the Norwegian based media group Schibsted CEO Kristin Skogen Lund says the effects of Apple's App Store behavior is felt particularly strongly in her region.

Kristin Skogen Lund [00:02:11] My name is Kristin Skogen Lund and I am the CEO of Schibsted.

Lea Palmieri [00:02:15] Hi, Kristin. How are you?

Kristin Skogen Lund [00:02:16] I'm okay. Thank you.

Lea Palmieri [00:02:18] Thank you so much for joining us. Why did you join the Apple App Store?

Kristin Skogen Lund [00:02:22] So the thing is that Apple has a very strong position in Scandinavia. More than 50% of consumers are using an iPhone. So it's really unavoidable for us. The concern with Apple is that they really dictate the conditions for our news apps and in particular the payment model that we can use when we offer digital subscriptions for our online news content. We have to use the in-app purchase, right? And if we fail to do so, we risk that Apple will block updates in the app or in the worst case, they will actually remove us from the iOS, which would naturally then be quite detrimental to us.

Kristin Skogen Lund [00:03:04] It's also very costly to us because the first year they require a 30% fee as a transaction fee and that's quite horrendous when you know that most credit cards typically would charge less than 1% of a transaction to do the exact same job. Probably almost the worst issue is that Apple blocks us from having access to data about our own customers. So that means we don't know what kind of subscriptions our customers have bought via that Apple system. It means that we will either lose out business altogether or we will have very unhappy customers.

Lea Palmieri [00:03:41] What needs to change?

Kristin Skogen Lund [00:03:43] I think the only governmental body who can really change this is probably the EU and we have a lot of faith in what they have done with the recently adopted EU Digital Markets Act. We think it really has in it to solve a lot of the problems that we are experiencing with the Apple App Store. But the thing with legislation is that you need to be sure that it's adopted and that it is enforced in the right way. So we expect Apple to be obliged to allow app developers to choose their own payment system that they can take control over the customer relationship. We should be able to communicate freely with our customers without interference from Apple. And Apple must allow business users such as Schibsted, to access data about our own customer.

Lea Palmieri [00:04:31] And how can that change happen quickly?

Kristin Skogen Lund [00:04:34] Well, we understand there are political processes that need to be respected, but we believe that these matters are quite urgent. And we believe that Apple has been allowed for too long to be almost like a private regulator of their own space. So I can only urge the EU politicians to speed up the process and make sure they're ready to implement in a forceful way as soon as possible. And this legislation is ready to be enforced.

Lea Palmieri [00:05:04] Is time a factor for businesses and startups across the publishing world?

Kristin Skogen Lund [00:05:09] It's a huge issue because, as you know, in this space, things develop and happen so quickly and positions lost and subscribers lost are very hard to regain. So I would almost be as drastic as to say that every day matters on this issue.

Lea Palmieri [00:05:24] In speaking about this, are you worried at all about the consequences when you are speaking out against Apple?

Kristin Skogen Lund [00:05:31] I guess you could say that. But on the other hand, I don't think we have a choice. This issue is too important. And I think companies like Schibsted who actually have strength in the market, I think we need to take this upon us to be that voice. And I'm very happy that more companies, including Spotify, are willing to take that risk and to stand up for this and really help enforce and very strongly need a change that is even more important for smaller players than ourselves, but we need to take that responsibility. Apple is known for being quite dictatorial in the way they dictate business terms, the way they negotiate contracts. And the issue with Apple, too, it's they're very hard to get a hold of as a user or as a business partner. You know, you can try to get in touch with Apple. You can try to get an answer. You can try to get an explanation. You can try to reach someone responsible that you can talk to. And it's basically impossible. They are a faceless company. And I think I was tempted to use the word 'abuse' of a strong position should really not be allowed because it doesn't serve the purpose of an open and democratic internet, which is, in the end, what will serve us all the best.

Neil Curry [00:06:44] Spotify considers the European Commission's Digital Markets Act to be complementary to, not a substitute for, traditional competition law enforcement and Spotify's original complaint against Apple filed in March 2019. The commission's

investigation into Spotify as complaint resulted in a preliminary ruling that Apple has broken EU antitrust laws, but a final decision is still awaited.

Lea Palmieri [00:07:11] Spotify is also concerned about the DMA's implementation if faced with deliberate obstruction and delays in compliance from the gatekeepers it aims to rein in. But the platform regards legislation as an important step to advance the continent's digital economy in the fight for fairness. And this week, reports emerged in the media that Apple is preparing to at least partially comply with the DMA by allowing third party app stores on iPhones and iPads in the European Union.

Neil Curry [00:07:37] The news was received with more than a hint of skepticism by the Coalition for App Fairness, which issued a statement with some choice words. The CAF statement described the news as an admission that Apple has a chokehold on competition and that their prior arguments about the risks of third party app stores are bogus.

Lea Palmieri [00:07:58] CAF welcomed the pressure from policymakers in forcing Apple's hand over the distribution of apps on iOS, but vowed to remain vigilant on other key provisions of the DMA, such as prohibiting self-preferencing and restrictions on payment choice and allowing developers to freely communicate with their users.

Neil Curry [00:08:16] The Coalition declared themselves unconvinced that Apple had reformed its anti-competitive ways, saying time and again, 'Apple has made limited adjustments to adhere to laws in jurisdictions around the world, only to turn around and violate them shamelessly.' And it anticipated Apple continuing to 'obstruct competition and protect their bottom line' unless policymakers and regulators act.

Lea Palmieri [00:08:41] The statement also urged the U.S. Congress to take action of its own as policymakers are racing against the clock to try to pass new antitrust legislation to protect American consumers and businesses. The Open App Markets Act was introduced last year by Democratic Senators Amy Klobuchar and Richard Blumenthal, together with Republican Senator Marsha Blackburn. And we're about to hear from all three of them.

Neil Curry [00:09:04] The legislation aims to prevent App Store owners from forcing app developers to use the app stores own payment system. It would ban app stores from self preferencing, essentially favoring their own products at the expense of competitors. It would allow developers to freely communicate in their apps with their customers and also allow developers to offer their apps to consumers for direct download from their websites or through competitive third party app stores.

Lea Palmieri [00:09:33] The bill passed the Senate Judiciary Committee stage in February with overwhelming bipartisan support. Now, though, supporters are hoping to move the bill through Congress before the end of the lame duck session. The remaining period between the midterm elections and the first session of the new Congress in January.

Sen. Richard Blumenthal [00:09:51] I am Richard Blumenthal, United States Senator from Connecticut.

Sen. Marsha Blackburn [00:09:56] Marsha Blackburn, Senator, Tennessee. The Open Market Act is something that gains more support and attention every single day. The reason we need this is to open up the marketplace, to allow more competition, to allow developers to be able to take their product directly to the consumer. And during these times of very high inflation, this would get the cost of your app down.

Sen. Richard Blumenthal [00:10:30] We're dealing with a new technology and a new set of challenges to antitrust enforcement. And obviously, new technology presenting new challenges requires new kinds of protections for consumers when there is dominance, as there is here.

Sen. Marsha Blackburn [00:10:51] We've had tremendous support from members all across the industry. When you look at people that are innovators, when you look at human rights organizations, we have heard from so many different people who say, hey, wait a minute, we should be able to put whatever we want on this device and not have to share that information, not create a revenue stream for Apple.

Sen. Richard Blumenthal [00:11:18] This support is extraordinarily deep and broad. There is support in White House as well as more broadly in the Congress as a whole. We have Republicans and Democrats who have co-sponsored it because there is really a felt need among consumers that they want more access to new apps and the gatekeepers here are controlling and stopping access that would offer better prices and more choices.

Sen. Marsha Blackburn [00:11:47] It doesn't matter if you're Democrat, Republican, or another party affiliation. App developers and innovators are saying 'we have an issue with market access and there is a way to solve this problem.'

Sen. Richard Blumenthal [00:12:05] We're up against armies of lobbyists and lawyers who are extremely well-paid, well-financed and well-armed with this information. And

the argument about cybersecurity is one of the misinformation arguments against this bill.

Sen. Marsha Blackburn [00:12:25] It's important to note that this bill was introduced back in August of '21, and there is an opportunity to get it finished before the end of the year. It's a good consumer bill, and it's very much a pro-consumer bill. So we're working really hard to try to get it across the finish line.

Neil Curry [00:12:49] Senator Blumenthal had a personal message for Apple CEO Tim Cook.

Sen. Richard Blumenthal [00:12:54] At the end of the day, what I would ask Tim Cook is: Please support my bill. If you're not doing any of these bad things, why not support the bill? If you're in favor of competition and innovation, support the bill. If you believe that there's no unfair charges or grants or whatever. No copy and kill, support the bill.

Neil Curry [00:13:17] And we heard from Senator Amy Klobuchar, who has oversight on antitrust enforcement issues at the Department of Justice as chair of the Judiciary Committee's Subcommittee on Competition Policy, Antitrust and Consumer Rights. She responded to this week's media reports that Apple is preparing to allow third party app stores on its platform within the European Union to comply with the EU's new antitrust law.

Sen. Amy Klobuchar [00:13:42] So here's what's really interesting is that in Europe, the companies are developing systems. Apple is to do exactly what they're saying they can't do in America. Let me repeat that. They're developing systems and it's public to allow them to do things that they won't do for Americans. Our bills are designed to level the competitive playing field and ensure that the platforms don't use their power to harm competition businesses and consumers in digital markets. And by the way, why are they doing it in Europe? Because Europe's passed a law and Europe has done things. We've introduced a law. We have gotten strong support, but it still hasn't passed. And that's why I am so passionate about making sure that we pass these bills. The news that Apple plans to let rival app stores operate on iPhones in Europe shows that the arguments against our bill were simply scare tactics designed to stop it. And that's why we must pass it. We basically have to get our act together in America.

Neil Curry [00:14:45] As well as responding to this week's media reports. The senator also talked about the need to reform antitrust law over.

Sen. Amy Klobuchar [00:14:52] The last several decades, we've seen a Supreme Court steadily weakening the antitrust laws, and that has led to the rise of monopoly power across our economy in everything from cat food to caskets. And that includes digital platform markets like app stores for cell phones. So we need to rejuvenate our competition laws for the modern economy. That means broad reform of our antitrust laws and also legislation to set rules of the road for dominant digital gatekeepers.

Lea Palmieri [00:15:29] Among the many supporters of the legislation is the co-founder and co-CEO of Fanfix, Harry Gestetner. Fanfix is a monetization platform for Gen-Z creators, which builds fan membership and generates income from their subscribers. The startup was launched a little more than a year ago and proved to be an immediate success, attracting a multimillion dollar acquisition deal. But you won't find fan fix on the Apple App Store. Harry Gestetner joins us now to explain why. Hi, Harry, how are you?

Harry Gestetner [00:15:58] Very well, thank you. How are you?

Lea Palmieri [00:15:59] I'm doing great. Thank you so much for joining us today. Can you tell us a little bit about your current status in regards to the Apple App Store today?

Harry Gestetner [00:16:07] Yes, we are still a web app and not a native app. And I mean, there's a significant reason, and that's because of Apple's 30% tax, including Fanfix platform fees and prayment proceess fees. We take a 20% cut. And so if we were to be a native app, it would mean creators take home half or less than half of their earnings, which is just an absolutely ludicrous concept. And so we're a web app, not a native app. It definitely hurts our business not being and we're just absolutely praying and pushing that something gets done to resolve this situation and end Apple's monopolistic and predatory behavior.

Lea Palmieri [00:16:46] What needs to change?

Harry Gestetner [00:16:47] This significantly harms innovation and competition. And competition is one of the cornerstones of capitalism. And the government's role is to protect the market functions. And so the government has to step in here. I'm really hoping that Congress passes the Open Up Markets Act and Apple needs to drop or blow the tax to a much more manageable level because it's just completely unsustainable.

Lea Palmieri [00:17:11] Without that tax, would your business be able to be on the App Store and what would that mean for that?

Harry Gestetner [00:17:17] Oh, certainly we'd be on the App Store and it would mean significantly more income for creators and significantly better experience for the users and for their customers. And ultimately more people able to sustain their lifestyles and put food on the table and pay their rent.

Lea Palmieri [00:17:35] Apple would probably say, like, 'look, we've invested in developing our App Store, ensuring privacy and security and all of that. So aren't we entitled to demand payment from businesses enjoying the benefits of that?' But what do you think?

Harry Gestetner [00:17:47] I think it's very, very clear this is not about security and privacy. You know, this is about taking advantage of monopoly and taking advantage of small businesses and increasing their bottom line with Apple here. This is just a classic case of the golden rule. You know, whoever has the gold makes the rules, and this needs to end.

Lea Palmieri [00:18:04] You already have a very impressive resume, but you are a young guy. So do you worry a little bit about the consequences of speaking out against Apple? Surely you're hoping to have a very long, successful career in this space. Do you worry about that at all?

Harry Gestetner [00:18:17] I mean, certainly, you know, it's very much a David versus Goliath situation. But I think change needs to happen and that's not going to happen unless people speak out. So I'm very happy to be one of the people to do that.

Lea Palmieri [00:18:30] And why should Gen-Z entrepreneurs and consumers care about the issue?

Harry Gestetner [00:18:33] I do think the majority of Gen Z is probably pretty unaware, but it's going to take things like this and small businesses speaking out, creators speaking out, waking consumers up to the fact that this is going on and this is impacting their daily lives. I think the Epic case was very good wake up call. If we don't have values, we don't have anything. And I think one of our values should be to allow competition and allow fairness. And so, you know, it's incredibly important.

Neil Curry [00:19:04] Proton CEO Andy Yen is one of a trio of young computer-scientists-turned-entrepreneurs who set up the encrypted email business, ProtonMail. They met in the Swiss city of Geneva while working at CERN, the European Nuclear Research Center, famous for the Hadron Particle Collider, and its research into the origins of the universe. Since the Big Bang moment for their business, Protonmail

has grown to over 70 million members worldwide. But there was a time when you wouldn't have heard Andy taking part in a podcast such as this.

Andy Yen [00:19:38] Well, in the early days, actually, Proton was also one of the companies that was very afraid to speak out. For me, as a small business owner and as a startup founder, that was the most difficult decision for me because on one hand, if you speak up, you are making an enemy of companies that today, could overnight retaliate and destroy your business and recourse, legal or otherwise, to prevent that from happening. So what I think this is important to illustrate is the lack of people speaking up isn't because there is no problem. A lack of people speaking up is actually a sign of the problem because people are so afraid that they're just afraid to even say anything. And if that is the internet today, then I think that's a terrible place for the world to be.

Neil Curry [00:20:25] What are the key remedies needed to address unfair competition?

Andy Yen [00:20:29] You can, of course, always try to regulate your way to solutions, but that often isn't very sustainable. It's not practical for some of the government agency to come in and tell Apple, 'you can only charge 6% on the App Store.' What we actually want is a market-driven solution. So you can imagine today, Apple could charge 30% if we allowed Visa, MasterCard, Stripe, PayPal, other application processers to also do mobile payments, then you could actually enter a regime for the markets and market economics and set the price. I don't know what the price would be, but I'm pretty certain that wouldn't be 30%.

Neil Curry [00:21:06] Why did Proton join the Coalition for App Fairness?

Andy Yen [00:21:10] Well, I think it's very difficult as a small company to get your voice heard, and I think it's important to join these coalitions because it's a way for small businesses that otherwise wouldn't have a voice to actually have a voice and to show that actually it's not just big tech vs bigger tech, right? It's something that impacts even small businesses and startups around the world. The Internet needs to allow innovators to be all over the place to be able to have a chance to innovate and create new ideas and security tools. And this is the innovative marketplace that, in the end, leads to better consumer outcomes.

Neil Curry [00:21:46] Let's give you an illustration of how Apple's rules have a direct and serious impact on a business, using Spotify as an example. The audio platform recently introduced an important new service—audiobooks—allowing users in the US,

UK, Ireland, Australia and New Zealand access to more than 300,000 titles at the click of a button. Or at least that's how it's supposed to work. This is the simple listener experience Spotify hoped to create on Apple iOS.

Lea Palmieri [00:22:17] Open Spotify App. Find and purchase your new favorite audiobook. Enjoy audiobook.

Neil Curry [00:22:24] Simple. But Apple had other ideas. This is how it actually works.

Lea Palmieri [00:22:31] Open the Spotify app on iOS and you'll find a lock on each audiobook, no ability to purchase the book, no price information, no explanation why, no instructions where else to go to purchase the book, no link to do so. Spotify is not allowed to answer your questions or even send you an email about it.

Neil Curry [00:22:50] That's deliberate. Building of a wall between the platform and its users is all because Spotify refuses to pass on Apple's 30% tax on audiobooks to its customers.

Lea Palmieri [00:23:01] Spotify's co-founder and CEO Daniel EK has been a consistent voice speaking out against such unfair practices, and he agreed to share his latest thoughts with For the Record.

Neil Curry [00:23:12] Daniel, thanks very much for joining us on the podcast. Why is fair competition so important to you? What does it mean for Spotify? And more importantly, what does it mean for Spotify's customers?

Daniel Ek [00:23:23] Let's actually take a step back and just talk about competition more broadly for our society. I am a firm believer in that competition is truly what drives innovation and therefore progress in society. So if you think about it, every great innovation. If that was the sole innovator in the space that came out with something that wouldn't push that person to push for progress. Instead, you see it time and time again that when you have environments that don't have a lot of competition, you rarely see progress in society. So I think it is important and an imperative that we enable as much competition as we can in all facets. I think that is how we solve some of the most important and fundamental issues that we're facing as a society. But I think it's very important to also say that competition won't work unless everyone has a fair and equal chance of succeeding on the merits of their innovation and ideas and products. So for me, it is important to speak out when I don't think that we are in a situation that is fair and equal. And I've been talking about this for many, many years now. And if you go back 20 years, we were arguing about net neutrality, but now we live in this very empty

competitive environment where literally two platforms are in this place where they control how people are accessing the Internet. And one of these platforms, Apple, is the owner of both the iOS platform and the App Store and is competing with services directly like Spotify. And in this position, they continue to give themselves unfair advantages really at every turn and setting themselves up as both the referee and the player in this game. And that stifles innovation and deliberately hurts competitors and consumers because they won't see the progress of what fair contribution brings to it. So I really do believe that it's central for our society to enable a competitive environment on equal footing, because that's how we will achieve progress in society.

Neil Curry [00:25:32] And in terms of lawmakers in the U.S. as being bipartisan support for new measures to firm up the antitrust regulations, yet nothing has been passed so far. So what does a successful resolution look like from Spotify perspective, and what's the danger of this being delayed or not happening at all?

Daniel Ek [00:25:50] Well, I think the danger is obviously in the end that this will be harmful for the economy and more importantly, be harmful for consumers. And so our view is quite simple. We think that there needs to be regulation in this space. We think it is one where it has to make it clear that you as a developer or a company should be able to interact with your consumers. You should have the ability to bring new innovations on the market, on equal terms as the platforms themselves, and that there should be a choice for how these consumers should be able to pay for goods and services on these platforms. That can't be dictated by Apple. That should be lawmakers and regulators. That should dictate that—not a single company. So there's an enormous concentration of power, perhaps more than we've ever seen in history, where you have literally one company here dictating the rules for how millions of companies should be able to conduct business. The primary source of business, in the case of Spotify, that is the only way we do business. And we have one company who, by the way, are competing with us that dictates how we can do business. That just is absurd. And that's what we need to regulate against.

Neil Curry [00:26:59] Now, this podcast is focused largely on Apple, but isn't Google a gatekeeper just like Apple? So why, have your complaints focused mainly on Apple?

Daniel Ek [00:27:10] I think it comes down to the fundamental nature of the various companies. Apple is a closed system. There's nothing wrong with being a closed system, but that means that they have more control over what the and experiences. And Google, and Android in particular, which is the other operating system that's a major one, is an open ecosystem. That means that there's a lot more flexibility for how we conduct business on that. So we are able to—and you see lots of manufacturers, for

instance, don't take the standard Google services and include them—and there are alternative app stores that work on the Android ecosystems as well. And Apple in particular imposes this 30% tax on companies. So Google don't have that. To the same extent, not only can I build my own store on the side, but I'm obviously free to communicate with my customers in addition to that and bring new innovations because you're not dependent on Google to say yes to those things because the Android ecosystem is inherently an open ecosystem in the end. That's why there's, on the surface, a lot of power in Android, too, but in effect, a lot less likely threat. But obviously the regulation that we're proposing would take aim on every platform that becomes an essential gateway for how consumers interact with the Internet.

Neil Curry [00:28:30] Daniel is a more direct question to you. Would you be satisfied with the reduction in the 30% tax?

Daniel Ek [00:28:39] You know, at this point, if you'd asked me five or six years back, the candid answer is we probably would have done a deal at lower than 30%. But the more we have been pressing this issue, the more other app developers, creators and the whole landscape has reached out to us, gave us examples where this doesn't work for them. So at this point, this is a big fight about the future of the Internet for me. Five years ago, when we were discussing this in the room and we're talking about taking on the biggest company in the world, who's also one of the most loved companies in the world for an issue that, frankly, no one understood, there was very little belief, but that was the same when we started Spotify, too. And I've made this perhaps a huge part of my own personal legacy to try to land this. And I'm fighting not because of just Spotify, but because I truly, at the core of my being believe this is right. And it's very important for the future of the economy and for app developers and creators alike.

Neil Curry [00:29:43] You talk about taking on one of the biggest companies in the world, putting this podcast togethe, we've heard from small businesses who would like to speak publicly but were afraid of the repercussions from Apple. Aren't you afraid of taking on this company? What do you fear? What's the worst case scenario and why do you still continue with it?

Daniel Ek [00:30:01] Well, the worst case scenario is obviously that Apple, if they would choose to retaliate for whatever reason, decides to run afoul of their rules and decide to throw us out of the App Store. And obviously I'd take that responsibility. Huge of all the jobs that work at Spotify, of all the creators we're helping, etc. and that is important. But again, the cost keeps increasing every day that you don't speak out. And frankly, at this point and even four years ago, the costs outweighed all the benefits. So any risk was just simply much less important in the grand scheme of things.

Neil Curry [00:30:36] When you first raised this issue four years ago, you were pretty much a lone voice. How has the momentum gathered since you first spoke out about this, and do you think the discussion of fair competition is now reaching a critical moment?

Daniel Ek [00:30:50] I absolutely think this is at a critical moment because, as I said, it's a steady case of Apple demonstrating their power time and time and time again. I think that we've gone from a place where there was little attention to the issue, to now being in a situation where there's a lot more attention to this issue by lots more app developers. I mean, we've seen in the past few weeks people like Elon Musk speak about this. My job is to try to gather as much support for this, speak to as many regulators as possible and inform them about what's going on. And I'm encouraged by the discussions we're having. As an entrepreneur, I'm always restless and want things to happen faster. So I'm definitely going to do all my best to try to push this progress much faster than where we've been seeing. And I think 2023 is the year that that will happen.

Neil Curry [00:31:39] Well, Daniel, thank you very much indeed for your time today. And it's been great to speak with you.

Daniel Ek [00:31:43] Thank you so much for having me on.

Lea Palmieri [00:31:49] We're going to end this podcast with a personal account of the devastating impact of Apple's rules on a small business as it struggled to provide a mobile connection to its customers through the App Store. Karen Thomas is the CEO and founder of Agrin Health, a Nashville-based service providing tools and resources to help families manage their day to day health care. Hi, Karen, how are you?

Karen Thomas [00:32:10] I'm wonderful, thanks. How are you?

Lea Palmieri [00:32:12] Why did you join the Apple App Store?

Karen Thomas [00:32:15] We are not in the App Store because we want to be. We're only in the App Store because Apple is a closed system and we have to be to get our app on to our members' phones. So we have to go through it. And so we have our members we have our relationship outside of Apple, even before Apple comes into the picture and so Apple shouldn't get a reward for us having to work for them because they've created this monopoly. In fact, if anything, it should be going in the other direction! Apple should be thanking us for bringing value to members who use iPhones

and maybe want to stay in the Apple family because they can access services like ours. If Apple doesn't have apps on the App Store, they don't have value, and that's the piece that they're missing.

Lea Palmieri [00:33:01] So what impact has Apple's rules and practices had on your business and your consumers?

Karen Thomas [00:33:06] So last year we had submitted an update to our app and the reviewer came back to us and said that apparently they have been researching our company—they had looked on our website and determined that we were getting revenue from a means that had nothing to do with the app. And for us to enhance our app and any changes to it going forward, we would have to move all of that functionality into the app and charge everyone for that revenue through the app so that Apple could take 30% of this revenue. That had nothing to do with that. And what they were asking of us would have taken 6 to 9 months of development time and hundreds of thousands of dollars. And that's if we would have put everything else in the company on hold, diverted all of our attention to go put all of these services that should never be in a mobile app, by the way, into the mobile app. And so we were really fortunate to be in a situation where we could pivot a little bit and change our business model and just eliminated the option for Apple to take revenue from us. So it's going to cost us millions of dollars over the next five to ten years. But no small company can stop all of their development and innovation for almost a year and pour hundreds of thousands of dollars into simply moving functionality, nothing that would even add any value to our members. And so once we had done that and basically went back to Apple and said, 'Look, we've changed our business model now there's nothing for you to get.' They said, 'okay, never mind,' and put the app through just as it was.

Lea Palmieri [00:34:39] So what needs to change?

Karen Thomas [00:34:41] App stores in concept are supposed to do a few things. One is make sure that the app technology is sound. Make sure it's not going to crash or vote or make sure it doesn't have spyware or malware, right? The second thing they do is make sure that the app doesn't do anything illegal, that your app isn't designed for human trafficking, that sort of thing. And the third thing that app stores are supposed to do is make sure that the consumers really, truly understand what the technology is doing on their phone. What is it asking permission for? What is it accessing, those sorts of things. That is a very valuable set of services. And so I don't think that the App Store should go away. I think we have to re-envision what an app store is and the boundaries and the barriers that they put up in terms of gatekeepers. We need to see competition in the App Store market itself, not just the apps. The bad behaviors will have to stop

because if companies like mine have a choice, I won't be on the Apple App Store anymore, right? I can go to another app store that has maybe more favorable relationships with this app's vendors. And so there's, in that case, you end up with app stores that are the best of breed. And we don't have that today because we have these monopolies.

Lea Palmieri [00:35:56] Is time a factor for small businesses and startups?

Karen Thomas [00:36:01] Yes. Yes, it is always. Time is always a factor, right? You never have enough money. You never have enough resources. And all of your competitors are taking advantage of every second you're not advancing. So, yes, absolutely. If you can't get out fast, if you can't get out fully, if you're having to spend extra money and time and resources placating a third party, all of those are threats to the survival of small companies and the innovations they bring to the market.

Lea Palmieri [00:36:31] And what would the impact of the Open App Markets Act failing to be passed?

Karen Thomas [00:36:36] Status quo isn't even an option anymore. We're at a fork in the road. So either we pass this legislation and we send a signal to Apple and Google to say that 'monopoly won't work, you're going to have to behave better and participate in a free market,' or we don't, and we send the exact opposite signal to tell them, 'look, we can't do anything about you. Feel free to go and be emboldened and what you're doing and take further advantage of the IP you have access to and the stranglehold that you have on the market.' There is no let it lie anymore. We make a statement one way or the other.

Neil Curry [00:37:15] If you want to find out more about any of these issues, you can find a ton of information on the Coalition for Fairness website.

Lea Palmieri [00:37:22] And also on Spotify's microsite, TimeToPlayFair.com. From me, Lea Palmieri in New York City.

Neil Curry [00:37:29] And for me, Neil Curry in London, and the For the Record team, thank you for listening.

Lea Palmieri [00:37:47] Spotify, For the Record, is a Spotify production. It's produced by Jared J. Smith, Mark Van Hare, Andrea Park, Ben Chugg, Olivia Canny, and Lea Palmieri. We're edited by Neil Curry. We're eEngineered by Evan Viola, and our theme music is by Andrew Pomeroy. Special thanks to this week's guests.