



March 18, 2021

Massachusetts Legislators
Boston, MA 02133

Re: Bill HD 2125, Act promoting competition among app stores—SUPPORT

Dear Legislators,

Consumer Reports¹ writes in support of HD 2125. For over 80 years, Consumer Reports has worked with consumers for truth, transparency, and fairness in the marketplace. We are strong proponents of public policy that promotes competition and consumer choice. It is consumers' ability to walk away from bad or expensive choices that disciplines companies and incentivizes them to operate with a duty of care to consumers. This is what HD 2125 aims to do. It aims to introduce more competition by allowing additional payment solutions in App Stores and other measures to enable third party apps (apps not developed by Apple or Google) to compete with Apple and Google's own apps on similar terms.

The other measures (other than allowing additional payment solutions) that Consumer Reports supports include:

- prohibiting restrictions on app developers communicating through their own apps;
- non-discrimination (by restricting self-preferencing and requiring interoperability);
- restricting App Store owners from using data derived from a third party app developer or the developer's application to compete with the developer;
- requiring specific reasons to exclude app developers from the App Store; and
- allowing end users to choose third party apps as defaults and to hide or delete apps provided by the App Store owner.

HD 2125 is required to address the entrenched market power of Google and Apple. Today the software and mobile app choices of over 99% of US smartphone users are determined by Apple (just over 46% of users) or Google (53% of users).² In addition, consumers generally single-home when using smartphones i.e. a consumer uses either an Apple or an Android smartphone at one time not both at the same time. The combination of high smartphone market shares and single-homing by consumers means that Google and Apple have both the ability and incentive to set App Store market rules that often benefit them at the expense of their captive users or businesses that sell apps and services via the App Store.

¹ Consumer Reports is an independent, nonprofit membership organization that works side by side with consumers to create a fairer, safer, and healthier world. For over 80 years, CR has provided evidence-based product testing and ratings, rigorous research, hard-hitting investigative journalism, public education, and steadfast policy action on behalf of consumers' interests. Unconstrained by advertising, CR has exposed landmark public health and safety issues and strives to be a catalyst for pro-consumer changes in the marketplace.

² eMarketer, Feb 2021, *US Smartphone User Share, Android vs. iPhone, 2020-2022 (% of smartphone users)*.

This is evident in their prohibition of alternative payment solutions in App Stores,³ and other terms and conditions which effectively mean preferential treatment for Google or Apple's own apps and differential treatment among third party apps.

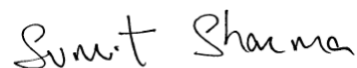
Consumers get a raw deal directly as a result of these rules. For example:

1. Consumers face higher prices as part or all of the 30% 'commission' charged by Apple or Google is passed on to consumers.⁴ In many cases consumers will not even be aware that they can buy the same service for a lower price outside the App Store as Apple, for example, prohibits app developers from communicating this to consumers.
2. Customers face frustration and confusion as some apps do not offer the ability to subscribe to their services via apps to avoid the 30% 'commission' charged by Apple and Google.⁵
3. Consumers are misled and may not end up buying or using apps that best serve their needs. This may be, for example, because Apple's and Google's own apps are often set as the default choice, don't have to pay the 30% 'commission', or get preferential ranking in App Store search results.⁶

HD 2125 would address many of these issues by adding payment solutions to Apple and Google's App Stores (introducing competition which should result in lower commission rates) and prohibiting practices that mean third party apps do not compete with Apple and Google's own apps on similar terms. If enacted the bill should allow the best apps to get consumers' attention and dollars, irrespective of which company makes the app.

For all these reasons we urge you to support HD 2125.

Sincerely,



Sumit Sharma

Senior Researcher, Tech Competition
Consumer Reports

³ Apple only allows its own payment solution in its App Store (Apple's In-App Purchase – IAP) and Google only allows its own payment solution in its App Store (Google Play Billing – GPB).

⁴ For example, Spotify (a streaming music service that competes with Apple music) raised its monthly subscription price to \$13 from \$10 in 2014 to make up for Apple's cut. Now it is no longer possible to pay for Spotify Premium via Premium with Apple's in-app payment system.

(See: <https://support.spotify.com/us/article/spotify-through-the-app-store/>)

⁵ For example Spotify (a streaming music service) and Kindle (Amazon's e-book App).

⁶ See for example, New York Times, Sept. 9, 2019, How Apple's Apps Topped Rivals in the App Store It Controls <https://www.nytimes.com/interactive/2019/09/09/technology/apple-app-store-competition.html>