

March 21, 2024

The Honorable Jonathan S. Kanter
Assistant Attorney General, Antitrust Division
United States Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C. 20530

Dear Assistant Attorney General Kanter,

Today, the Department of Justice filed a suit against Apple to target its anti-competitive behavior and prevent further monopolistic abuses in which it frequently engages. As a coalition of libertarians and conservatives committed to freeing America's innovation economy from the grips of monopolistic actors, we write in support of the DOJ's antitrust suit against Apple. We believe that the DOJ's action here can help level the playing field for small businesses, provide consumers with real choice online, and safeguard American economic interests.

Of all the big tech companies, Apple has been the most egregious in exploiting its dominance to hamper the free market, unfairly undermine competitors, and attack free expression, all while advertising its support for privacy and, ironically, free expression.¹ Apple has built deep economic ties with the authoritarian Chinese Communist Party (CCP), leveraging their closed ecosystem to facilitate the CCP's human rights abuses.² For years, conservatives have sounded the alarm on Apple's discrimination against rival platforms, including alternative technology companies favored by many consumers.³ In 2019, the DOJ under President Trump launched an antitrust probe into Apple's anti-competitive conduct, which has only become more egregious in the years that followed.⁴ Most recently, Republican Commissioner of the Federal Communications Commission Brendan Carr called on this agency to look into Apple's anti-competitive behaviors and noted that it is the "single choke point" over the mobile ecosystem.⁵

¹ <https://www.apple.com/legal/privacy/en-ww/governance/>

² See, e.g., <https://techcrunch.com/2017/07/29/apple-removes-vpn-apps-from-the-app-store-in-china/?guccounter=1> and <https://www.fastcompany.com/90817341/why-is-apple-limiting-chinese-protesters-use-of-airdrop> and <https://www.nytimes.com/2021/05/17/technology/apple-china-censorship-data.html>

³ The New York Times, "Amazon, Apple and Google Cut Off Parler, an App That Drew Trump Supporters," Jack Nicas and Davey Alba, January 9, 2021, <https://www.nytimes.com/2021/01/09/technology/apple-google-parler.html>

⁴ Bloomberg, "Apple to Face US Antitrust Lawsuit as Soon as March," Leah Nylen, January 17, 2024, <https://www.bloomberg.com/news/articles/2024-01-17/justice-department-to-file-apple-antitrust-case-as-soon-as-march>

⁵ Hon. Brendan Carr, X Post, February 12, 2024, https://twitter.com/BrendanCarrFCC/status/1757145971295695226?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwtterm%5E1757145971295695226%7Ctwgr%5E761fa5f7abcd99dca5c6e65a6bc1f44570e53b67%7Ctwcn%5Esl_&ref_url=https%3A%2F%2Fwww.theverge.com%2F2024%2F2%2F12%2F24071226%2Ffcc-commissioner-brendan-carr-apple-beeper-mini

Apple’s discrimination against messaging app Beeper Mini—an application that allowed non-iOS users to access iMessage from Android phones—shows that the company is unwilling to deviate from this behavior on its own accord.⁶ Though Apple has cynically weaponized “user security” concerns to deflect from antitrust scrutiny,⁷ the company’s treatment of Beeper Mini exposes this line of defense as a farce. In December 2023, Apple delisted Beeper Mini from the App Store. The controversy surrounding iMessage-only “blue-bubbles” versus “green-bubbles” from non-Apple devices is not an aesthetic issue: as it stands, “green-bubble” messages are not afforded encryption like texts sent through iMessage are. Beeper Mini aimed to extend that security to Android users to ensure that all consumers’ messages were protected from unwanted peering eyes. Leveraging control of the App Store to destroy a company that aimed to give more choices to mobile phone users is a clear-cut monopolistic abuse.

Apple’s App Store policies have long harmed both digital competition and the expression of free speech. The company has long imposed exorbitant 30% commission fees on large app developers, and even amid scrutiny has only been willing to reduce the ‘Apple tax’ to 27% in specific circumstances.⁸ Apple continues to restrict developers’ ability to provide their own payment options, with app developers looking to do so required to apply for an “entitlement,” which still requires them to list Apple’s in-house payment option on their app. This business model clearly undermines fair competition because iOS users are not permitted to download alternative app stores—thus effectively forcing app developers to sell on the App Store.

Apple has leveraged this monopolistic market position to punish ideological dissidents, including through the delisting of alternative technology platforms like Parler.⁹ But while Apple has long discarded the concerns of American app developers, the company has been happy to modify its App Store policies to appease the CCP regime.¹⁰ Last year, it was reported that Apple would acquiesce to China’s demands for apps on the App Store to list their Beijing-designated Internet Content Provider (ICP) filing number. In doing so, Apple closed one of Chinese

⁶ Washington Examiner, "Lawmakers ask DOJ to probe Apple’s blocking of Android app allowing blue bubbles," Christopher Hutton, December 18, 2023, <https://www.washingtonexaminer.com/news/2601638/lawmakers-ask-doj-to-probe-apples-blocking-of-android-app-allowing-blue-bubbles/>

⁷ CNBC, "Apple says antitrust bills could cause ‘millions of Americans’ to suffer malware attacks," Lauren Feiner and Kif Leswing, January 18, 2022, <https://www.cnbc.com/2022/01/18/apple-says-antitrust-bills-increase-risk-of-iphone-security-breaches.html>

⁸ Forbes, "Developers Blast Apple’s 27% Fee On External Payments: ‘Bad Faith Compliance’," Siladitya Ray, January 17, 2024, <https://www.forbes.com/sites/siladityaray/2024/01/17/apples-decision-to-charge-27-commission-on-external-payments-draws-criticism/>

⁹ CNN, "Tim Cook: Why I kicked Parler off Apple’s App Store," David Goldman, January 18, 2021, <https://www.cnn.com/2021/01/17/tech/tim-cook-apple-parler/index.html>

¹⁰ AppleInsider, “Apple bows to China, starts enforcing App Store rules,” William Gallagher, October 3, 2023, <https://appleinsider.com/articles/23/10/03/apple-bows-to-china-starts-enforcing-app-store-rules>

citizens' only avenues to access, through VPN, apps banned by the Communist regime.¹¹ It's worth noting that this came just three years after Apple removed some 39,000 apps on the App Store in China in a single day to appease the government.¹² Worse yet, Apple's links to the CCP further endangered its users when it entertained the PLA-linked semiconductor manufacturer YMTC to produce memory chips for the iPhone.¹³ This only scrapes the surface of Apple's advocacy on behalf of Beijing: in 2020, the company tried to wield its lobbying might in D.C. to weaken legislation to stop forced labor in the Xinjiang region.¹⁴

Enough is enough!

With all of these considerations, we find that the DOJ's action in filing an antitrust lawsuit against Apple is appropriate and necessary to ensure the company complies with federal law. Apple has proven unwilling to make changes to its monopolistic business model in good faith, and competitors and consumers alike continue to pay the price. As Apple works to expand its monopoly into sectors like virtual reality (VR),¹⁵ artificial intelligence (AI),¹⁶ and the auto industry,¹⁷ holding the company accountable for its malfeasance is more important than ever. This is especially true when the company is contemplating allowing Google's Gemini—Google's primary competitor in AI and the app store market—to power the iPhone's AI features.¹⁸

For these reasons, we applaud the DOJ's suit to rein in Apple's anti-competitive behaviors and deny its attempt to concentrate the mobile ecosystem further.

¹¹ The Verge, "Apple is locking down the iPhone App Store to comply with a new law in China," October 3, 2023, <https://www.theverge.com/2023/10/3/23901205/apple-app-store-government-license-china>

¹² Forbes, "Why Hundreds Of Thousands Of Apps May Be Purged From the iOS App Store In China," John Koetsier, October 4, 2023, <https://www.forbes.com/sites/johnkoetsier/2023/10/04/why-hundreds-of-thousands-of-apps-may-be-purged-from-the-ios-app-store-in-china/>

¹³ LightReading, "Chinese Chip Maker Courted by Apple Faces Risk of US Sanctions," Iain Morris, April 27, 2022, <https://www.lightreading.com/business-management/chinese-chipmaker-courted-by-apple-faces-risk-of-us-sanctions>.

¹⁴ Washington Post, "Apple is lobbying against a bill aimed at stopping forced labor in China," Reed Albergotti, November 20, 2020, <https://www.washingtonpost.com/technology/2020/11/20/apple-uighur/>

¹⁵ The Wall Street Journal, "Can Apple's \$3,499 Vision Pro Headset Win Over Wary Consumers?," Aaron Tilley, January 30, 2024, <https://www.wsj.com/tech/apple-vision-pro-release-market-b3a6aa25>

¹⁶ CNBC, "Tim Cook teases Apple AI announcement 'later this year'," Kif Leswing, February 1, 2024, <https://www.cnbc.com/2024/02/01/tim-cook-teases-apple-ai-announcement-later-this-year.html>

¹⁷ Washington Post, "Apple has quietly tripled its testing of autonomous cars, records show," Trisha Thadani and Emmanuel Martinez, February 6, 2024, <https://www.washingtonpost.com/technology/2024/02/06/apple-car-self-driving/>

¹⁸ Bloomberg, "Apple Is in Talks to Let Google Gemini Power iPhone AI Features," Mark Gurman, March 18, 2024, <https://www.bloomberg.com/news/articles/2024-03-18/apple-in-talks-to-license-google-gemini-for-iphone-ios-18-generative-ai-tools?embedded-checkout=true>.

Sincerely,

Roslyn Layton
Co-Founder
China Tech Threat

Ryan Williams
President
Claremont Institute

The Digital First Project

Adam Candueb
Senior Fellow
Center for Renewing America

Ziven Havens
Policy Director
Bull Moose Project

Zach Graves
Executive Director
Foundation for American Innovation

Mike Davis
President & Founder
Internet Accountability Project

Mark A. DiPlacido
Policy Advisor
American Compass

Rachel Bovard
In Her Personal Capacity

Geoffrey Cain
Policy Director
Tech Integrity Project

Matthew Peterson
Editor-in-Chief
Blaze Media

Julius Krein
Editor
American Affairs

Clare Morell
Senior Policy Analyst
Ethics & Public Policy Center

Mark Meador
Visiting Fellow
The Heritage Foundation