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Cc: [Nelson Diaz](#); [Witbracht, Rachel](#)
Subject: Follow Up Info on App Store Issue
Date: Friday, March 19, 2021 10:00:10 AM
Attachments: [EpicComplaint.pdf](#)
[AppleResponse.pdf](#)
[NDAlecLetter.pdf](#)
[AFPTestimonyND.pdf](#)
[Forced App Distribution - Leave Behind \(3 17 21\)\[8\].pdf](#)

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Chairman,

Thank you so much for spending time with us yesterday on the App Store issue. I've attached several documents, including the original court filing by Epic Games and Apple's response. I'm also providing additional information below. Please let me know if you need anything else or have any additional questions.

Attached Documents:

- Epic Games Complaint
- Apple's Response and Counter Claim
- ALEC letter sent in North Dakota
- AFP's testimony in North Dakota
- Additional background on forced App Distribution legislation (attached and below)

Thank you!

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Additional Background

There are over 300 App Stores that operate across the globe. Our client (Apple) and Google Play are the biggest two. However, App Stores are a growing marketplace and allow rapidly expanding app development companies to have options.

Apple and Google Play have invested heavily in their App Stores – which make them highly sought after. However, alternative App Stores can allow more flexibility and more benefits for app developers – maybe a niche market, more favorable revenue sharing, higher visibility, etc.

Similar to fights we have seen between auto manufacturers and auto dealers, the relationship between an App Developer and an App Store is controlled through a contract.

For Apple, strong data privacy and safety specs ensure that both consumer personal data and consumer financial data is protected. This is the core of the contract requirements for access to the App Store. And it is one of the reasons people choose Apple – it is a highly secure environment.

Recently, one giant App Developer – Epic Games (maker of Fortnite) along with allies such as Spotify, Tile and Match have proposed “Forced App Distribution” legislation in nine states. The legislative proposal would prohibit App Stores such as Apple from:

- Requiring exclusivity with only one App Store; (Which protects personal data and ensures unauthorized apps cannot be downloaded)
- Requiring the use of an exclusive in-app payment system; (Which protects the integrity of personal financial data)

Last year, Epic Games violated the terms of the agreements with both Apple and Google Play, and was subsequently removed from their App Stores. They have filed litigation in federal court (California) and have a pending trial scheduled in May 2021.

None of the bills in the other states have passed – they have just become a media strategy to supplement their legal fight.

Most legislators we’ve talked to, 1) don’t believe in impairing the contract between private companies via legislation absent some heightened public interest and 2) want to engage in a legislative approach to interfere with pending litigation.