



February 3, 2022

The Honorable Amy Klobuchar
Chairman
Senate Committee on the Judiciary
Subcommittee on Competition Policy,
Antitrust, and Consumer Rights
Washington, DC 20515

The Honorable Mike Lee
Ranking Member
Senate Committee on the Judiciary
Subcommittee on Competition Policy,
Antitrust, and Consumer Rights
Washington, DC 20515

RE: CCIA's Statement Not in Support of *S. 2710, the "Open App Markets Act"*

Dear Chairman Klobuchar and Ranking Member Lee:

On behalf of the Computer & Communications Industry Association (CCIA),¹ I write expressing serious concerns with S. 2710, the "Open App Markets Act" and I request that the bill not be voted favorably out of the Committee.

Competition plays a critical role in the economy as a driver of innovation from which consumers benefit. This is particularly pronounced in the tech sector, an industry characterized by its dynamic competition, driven by rapid innovation. As part of the competitive process, companies that offer better products and services often benefit from increased returns. This cycle incentivizes companies to continue to invest in innovation and compete to the benefit of consumers, as evidenced through lower prices and improved quality of goods and services.

To this end, we offer the following concerns for consideration:

Consumers & Developers Have Choices Through Their Use of App Stores

App stores provide options for app developers to reach consumers in an efficient manner. In turn, consumers have a broader choice of software to use in their daily lives. In open systems, app developers and consumers have a number of platforms available to choose from including Google Play Store, SlideME, 1Mobile Market, Mobile9, Opera Mobile Store, Mobango, F-droid, GetJar, and more. Consequently, both app developers and consumers can choose from a wide range of app stores. Consumers and app developers can also move from one app store to another freely without being locked into any of these services as competition in open ecosystems requires. Closed ecosystems, like Apple's App Store, also provide an alternative to developers and users. These ecosystems have offered customers access to nearly 2 million apps, the overwhelming majority are free, and support 2.1 million U.S. jobs. Continuing to provide choices to developers and users fosters competition. Regulations mandating interoperability would require companies to give their intellectual property to others, potentially weaken user privacy, and would limit the covered companies' incentives to innovate.

¹ CCIA is an international, not-for-profit trade association representing a broad cross section of communications and technology firms. For fifty years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. For more, visit www.cciainet.org.

App Stores Invest in Maintaining their Services to the Benefit of App Developers and Consumers Alike

App stores invest significant resources in research and development to maintain these ecosystems. This includes investments in privacy and security systems that protect consumers. The fee that some developers pay for hosting their products on an app store allows companies to continue investing in the ongoing development of protections that safeguard consumers.

Restrictions on app stores' ability to charge developers could deter investments or innovation in software distribution. App Stores are incentivized to support developers, including those that compete with the covered companies because innovation attracts customers. By constraining the means by which app stores recover the costs of maintaining a safe, trustworthy, and useful ecosystem, companies' efforts to innovate and provide consumers with newer and better app stores could be impaired.

The broad mandates of S. 2710, and the excessively narrow affirmative defenses, put these vibrant app store ecosystems at risk. If passed, this legislation would introduce significant cybersecurity and privacy vulnerabilities into mobile ecosystems, which would harm consumers and developers alike.

While we share the Committee's objective of increased competition and innovation, S. 2710 would not achieve these goals. We respectfully request that S. 2710, the "Open App Markets Act" not be voted out favorably from the Committee, and we look forward to continuing to work with you as Congress considers competition in the app store sector.

Sincerely,

Arthur D. Sidney
Vice President, Public Policy
Computer & Communications Industry Association