AG Platkin Joins Department of Justice, Other States in Apple Lawsuit

Suit Outlines Apple's Deliberate Actions to Monopolize Smartphone Market

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View Complaint

TRENTON – Today, Attorney General Matthew J. Platkin joined the Justice Department and 15 other states to file an antitrust lawsuit in the U.S. District Court for the District of New Jersey alleging Apple is monopolizing the market for smartphones, stifling innovation and the development of apps and related technology in violation of the Sherman Act and New Jersey law.

"Apple's dominance in the smartphone market is not an accident," **said Attorney General Platkin**. "Instead, Apple has gone to great lengths to create a monopoly that affected not only the smartphone industry, but also the choice of apps, payment systems, smartwatches, and more. The end result is you pay more for an inferior product — all while Apple collects billions in profits. With today's lawsuit, we are standing up for consumers across the country and putting a stop to this monopolistic behavior."

The complaint details how Apple has held up improvements for millions of customers and prevented its competitors, including app developers, from having any real chance of success, all to maintain its market dominance.

The complaint alleges exclusionary and anticompetitive practices in the U.S. performance smartphone and smartphone markets in violation of Section 2 of the Sherman Act. In addition, New Jersey brings a claim under N.J.S.A. 56:9-4(a), which, like the Sherman Act, prohibits monopolies.

By revenue, Apple has over 70 percent of the U.S. performance smartphones market, but the company builds its profits on more than just the sale of physical iPhones. Developers seeking to create a new app, product, or service for the Apple App Store must agree to pay up to 30 percent of the price back to Apple. Then, when consumers make a purchase inside the app, Apple takes another 30 percent cut.

As part of these agreements, Apple imposes contractual restrictions that limit what features and functionality developers can offer iPhone customers, and limits the ability of third parties to tell iPhone users important information about pricing and purchases.

In addition, Apple selectively controls access to the application programming interfaces (APIs)—the points of connection between apps and Apple's operating system, iOS— which allows it to stymie apps and accessories that might encourage consumers to consider choosing other smartphones. Apple selectively designates APIs as public or private to its own benefit, limiting the functionality developers can offer to iPhone users even when the same functionality is available in Apple's apps.

Furthermore, the lawsuit notes, Apple has at times declined to improve its offerings, deciding on its own that something was "good enough." Sometimes the company has rejected improvements because it did not want to make it easy for customers to switch to other mobile devices. This corporate behavior collectively hinders and suppresses competition well beyond smartphones, stretching into instant messaging, payment services, and smartwatches, threatening future innovations.

Apple has taken—or not taken—various actions to grow and protect its monopoly:

Selectively compromising privacy and security interests if it was in the company's financial interest—such as degrading the security of text messages, offering only governments or large companies the chance to access more private and secure alternative app stores, or accepting billions of dollars each year for choosing Google as its default search engine when more privacy-friendly options are available.

For instance, Apple actively makes third-party cross-platform messaging apps that use a protocol known as OTT, or "over the top," worse. If allowed to be used, OTT enables more secure and advanced features, such as encryption, typing indicators, read receipts, the ability to share rich media, and disappearing or ephemeral messages.

Apple limits third-party messaging apps from combining the "text to anyone" functionality of SMS messaging with OTT by designating the APIs needed to implement SMS text messages as "private," meaning third-party developers have no technical means of accessing them and are prohibited from doing so under their contractual agreements with Apple.

Selectively blocking or degrading technologies that would lower switching costs and make it easier for users to choose other smartphones. For instance, the company blocks super apps and cloud streaming apps from the Apple App Store because they are not reliant on iOS to function. Apple also combines its control over app creation and API access to selectively block developers from accessing the near-field communication (NFC) hardware needed to provide tap-to-pay ability through a digital wallet app. While multiple app developers have sought direct NFC access for their payment or wallet apps, Apple refuses to do so to inhibit the development of cross-platform payment systems and maintain its monopoly.

New Jersey, the Justice Department, and the participating states seek substantial injunctive relief, including structural changes to Apple's business, along with reimbursement for the costs to bring this action. States joining today's lawsuit include Arizona, California, Connecticut, Maine, Michigan, Minnesota, New Hampshire, New York, North Dakota, Oklahoma, Oregon, Tennessee, Vermont, Wisconsin, as well as the District of Columbia.

Deputy Attorney General and Assistant Section Chief of Antitrust Isabella R. Pitt, Deputy Attorneys General Andrew F. Esoldi, Leslie Prentice, Ana Semoun Atta-Alla, and Yale A. Leber in the Consumer Fraud Prosecution Section within the Division of Law's Affirmative Civil Enforcement Practice Group are representing New Jersey in the matter before the District Court of New Jersey, under the supervision of Director Michael T.G. Long, and Assistant Attorney General Brian F. McDonough.

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