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My name is Jay Freeman, though most people online know me as "saurik". I am not a lawyer, so I hope you will excuse the format and relative informality of my comments; but, I have specific experience on this issue that I believe will be uniquely useful: while Apple's iPhone only has a single official marketplace for applications--the Apple App Store--I am part of the community of users and developers that had managed to build an alternative ecosystem of software on top of iOS, taking advantage of mistakes made in Apple's attempt to control their platform, to install an alternative to the App Store I developed: Cydia.

Honestly, I think the very existence and (temporary) success of Cydia--despite Apple making it so difficult for it to be installed on end user devices (and eventually managing to essentially kill it)--is itself one of the simpler arguments for the anti-competitive effects of their single-market ecosystem: at the height of its popularity, tens of millions of users were willing to follow complex instructions from often-sketchy-looking websites to gain access to the software available in the Cydia ecosystem... software which has always been largely disjoint from the App Store (despite some attempts to characterize it as "Apple's reject bin").

(As an aside, and only because it seems important to ensure that anyone else attempting to misinform your commission can be preemptively corrected: the jailbreaking ecosystem was not in any way successful due to application piracy. The US Copyright Office itself--which I'd dare say is one of the most foremost experts on this specific topic--concluded that "the record did not demonstrate any significant relationship between jailbreaking and piracy". In truth, pirated applications for the iPhone have always been possible using first developer account sharing or enterprise certificates and now the limited sideloading capabilities available on the device.)

At a high-level, typical customers--by which I don't mean affluent developers, but end users, for many of whom a smartphone is a very significant purchase--tend to own a single phone, which bifurcates the accessible market of users into two camps: those who own an iPhone, and those who own an Android device. Even if a consumer were able to buy a second device, due to the very nature of mobile devices, they are extremely unlikely to actively use more than one device at a time: being able to theoretically access another application using a secondary device isn't terribly relevant if that device is sitting at home.

A user must thereby choose between an entire ecosystem of products for an iPhone or an entire ecosystem of products for Android. This is a decision they are making devoid of almost any real context, and despite peoples' pet arguments that they are somehow magically informed of all of the downstream ramifications of this decision--some going so far as to claim that consumers are actively optimizing for locked-down experiences--your average consumer has any number of dominating reasons for choosing a particular device, including (but not limited to) immediately practical concerns such as camera lens options, size / form factor, and color.

Once a user has bought into a particular device, that's only the beginning: every purchase from that point on locks them further in. Some new cars (including one I was evaluating: a higher end trim for the Toyota Prius Prime) come with Android Auto but lack support for Apple CarPlay. The two device ecosystems use different power connectors, and so I now have drawers full of cables and adapters designed for use with my iPhone. Apple set a precedent--one Google has recently followed--for dropping the standardized headphone connector, meaning that even something as basic as the wired headset I use is iPhone-specific.

And, of course, the applications that come with a device are unable to be transferred from one device to another. The questions attached to this request for comments ask after whether "data portability" leads to any form of user lock-in, but I believe that this belies a deeper problem: the implementation of the business models of these app stores conveniently precludes the ability to transfer ones purchases from one device to another: if I buy an app--or unlock a feature using an in-app purchase--on an Android device, even though that application might very well also be available on an iPhone, I will have to re-purchase that app.

The result is that once a user has purchased an iPhone, even if they later come to not merely just regret their purchase but actively resent the product they own, the cost of them switching--a term thrown around in these discussions as if none of these explicit compatibility and business decisions have caused any lock-in--can be almost ridiculously high, requiring them to carefully re-build their entire life around the alternative platform. In a world where communication tooling and content licensing is all built on top of centralized cloud services, switching from an iPhone to Android goes far beyond the issue of "data portability".

This circumstance grants the platform which manages to get a user an almost unprecedented level of control over the content they are allowed to access and how their money is spent and directed through their ecosystem. Worse, this control is often exerted without the knowledge of the user, as the policies for software distributed by these app stores actively disallow attempts to inform users of pricing breakdowns for underlying costs. If it were actually the case--as these companies like to claim--that users are actively and consciously choosing to be bound by their terms, then there would be no reason for these provisions.

And, as to be expected by the old adage that "absolute power corrupts absolutely", if we look at how these companies are using this control, the results are not pretty, with the rejection of apps that help users find and protect themselves from security vulnerabilities, apps that shine a light on the moral contradictions inherent in smartphones, and apps that fall afoul of either side of the political spectrum. We see demands to ban "female presenting nipples" on social media--even in cases of breastfeeding--come not from advertisers (as is often blamed), but from a platform that has decided to become the moral police of our entire society.

While many have claimed that these restrictions are necessary for the safety of users, the reality shows that these markets continue to be full of scams, regardless of their curation. Additionally, research was done--physically near me, but with no connection to me and without informing me of it in any way (I actually learned about it from a random third-party one day0--has been done

at the University of California, Santa Barbara, showing that the alternative market we ran on jailbroken devices was actually safer than the official App Store when it came to ensuring that sensitive user information was not leaked from their devices. (See the below list of links for references for the various claims I make in this paragraph.)

As someone who has run a store, here's my claim: the concept of application curation is deeply connected with the mechanism of application discovery, and the deep truth is that the App Store has always been a poor place to find applications you don't already know about (whether by referral, advertisement, or reporting). In the case of the Google Play Store, the ability to search and find applications was (ironically, coming from Google) so limited that for a couple years I maintained a service called Cyrket that helped connect application descriptions onto the web so they could be linked to and indexed correctly by normal search engines.

The world will not end if users are allowed to buy products and services without paying a 30% tax to Apple and Google. On the contrary, we will see a plethora of new privacy-preserving ways to pay for things online that are currently impossible while preserving the ability for the platform to automatically take its cut. We won't suddenly see users fall for noticeably more scams, either; at best, I'd imagine we'd just see more people relying on search engines for discovery (which is better than the status quo). I also will say--from first-hand experience--that allowing license transfers and alternative payments can be done without going bankrupt.

Sincerely,
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