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Case No. **4:20-cv-05640-YGR**Case Title ***Epic Games, Inc. v. Apple, Inc.***Exhibit No. **DX-5518**

Date Entered \_\_\_\_\_

Susan Y. Soong, Clerk

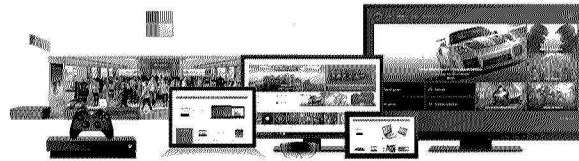
By: \_\_\_\_\_, Deputy Clerk



# Microsoft Store Policies & App Store Principles

January 2021

Microsoft Store



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# Principles for the Microsoft Store on Windows

Public statement from President CELA

For Discussion

For software developers, app stores have become a critical gateway to some of the world's most popular digital platforms. We and others have raised questions and, at times, expressed concerns about app stores on other digital platforms. However, we recognize that we should practice what we preach. So, today, we are adopting 10 principles – building on the ideas and work of the [Coalition for App Fairness \(CAF\)](#) – to promote choice, ensure fairness and promote innovation on Windows 10, our most popular platform, and our own Microsoft Store on Windows 10:



1. Developers will have the freedom to choose whether to distribute their apps for Windows through our app store. We will not block competing app stores on Windows.
2. We will not block an app from Windows based on a developer's business model or how it delivers content and services, including whether content is installed on a device or streamed from the cloud.
3. We will not block an app from Windows based on a developer's choice of which payment system to use for processing purchases made in its app.
4. We will give developers timely access to information about the interoperability interfaces we use on Windows, as set forth in our [Interoperability Principles](#).
5. **Every developer will have access to our app store as long as it meets objective standards and requirements, including those for security, privacy, quality, content and digital safety.**
6. Our app store will charge reasonable fees that reflect the competition we face from other app stores on Windows and will not force a developer to sell within its app anything it doesn't want to sell.
7. Our app store will not prevent developers from communicating directly with their users through their apps for legitimate business purposes.
8. **Our app store will hold our own apps to the same standards to which it holds competing apps.**
9. Microsoft will not use any non-public information or data from its app store about a developer's app to compete with it.
10. Our app store will be transparent about its rules and policies and opportunities for promotion and marketing, apply these consistently and objectively, provide notice of changes and make available a fair process to resolve disputes.

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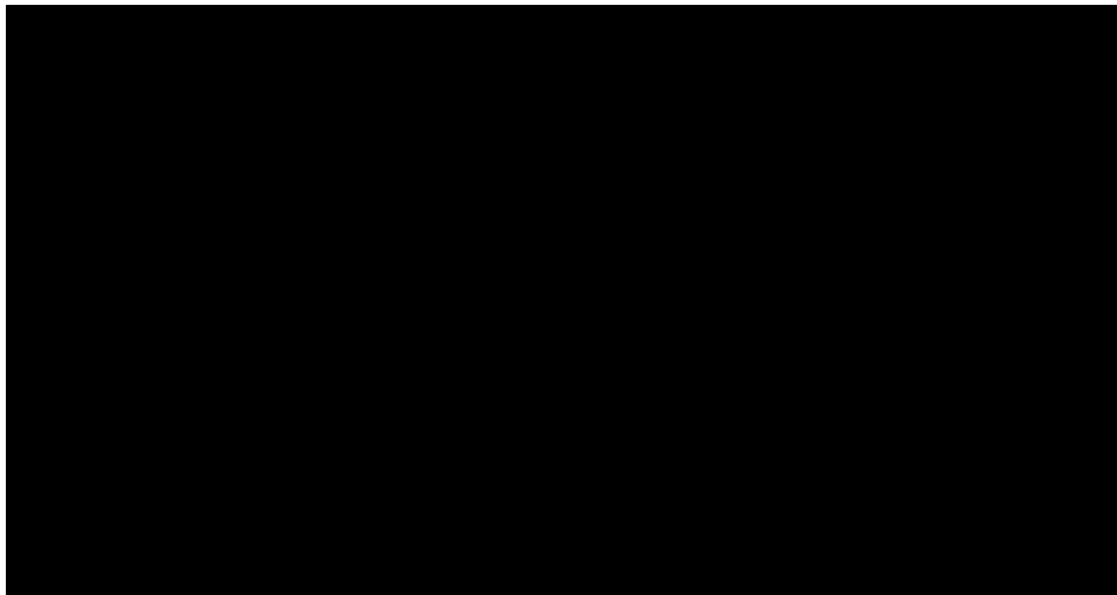
## Policies for the Microsoft Stores

Areas where Windows and Xbox organizations longer term POR Conflict


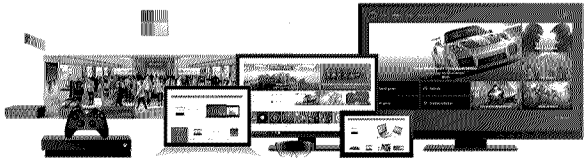
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- 10.1.2:** Your app must be fully functional
- 10.1.5:** Your app may promote or distribute SW only through the Store
- 10.2.4:** Products may depend on 3<sup>rd</sup> party SW to deliver functionality, but that dependent SW **must be disclosed and be available in the Store**
- 10.8.1:** Use of our billing platform

## Policies for the Microsoft Stores



## **APPENDIX**

<p> Microsoft</p> <h1>Microsoft Store Revenue Share &amp; Exceptions Overview</h1> <p>January 2021</p> <p>Microsoft Store</p>	<p><b>Not for Presenting Follow Up Q &amp; A</b></p>  <p><b>Microsoft Confidential</b></p>
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## Store Policy Session Overview

### Session Purpose

- Provide an overview of both Microsoft Store Standard Fees and Revenue Share and Policy exceptions provided to our Top Apps and PC Games ISVs across Xbox and PC. Partners ranked by gross sales (accounting for 90% of est. total sales)

### Desired Outcome

- Understand Partner-types that Store provides exceptions for and why.
- Understand the key Policy exceptions provided and why.

### Strategic questions being addressed

- Why does Store provide Policy exceptions to select few partners?
- What are and why does Store provide other contractual 'gives' to select partners?

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## Microsoft Store Standard Fees & Revenue Share Overview

Across All Storefronts\*

Microsoft Store on Windows 10	Microsoft Store Revenue Share
<b>Applications</b>	
All transactions (one-time app purchase, subscriptions, in-app digital content)	<b>15%</b>
<b>Games</b>	
All transactions (one-time game purchase, subscriptions, in-app digital content)	<b>30% (today)</b>
All games will move to 88/12 in CY21	<b>12% (H1 CY21)</b>
<b>Microsoft Store on Xbox</b>	<b>Microsoft Store Revenue Share</b>
<b>Applications</b>	
One-time app purchase/in-app purchase of non-subscription based digital content	<b>30%</b>
<b>App Subscriptions</b>	
Any recurring fee paid to access / consume app services.	<b>15%</b>
<b>Games</b>	
All transactions (one-time game purchase, subscriptions, in-app digital content)	<b>30%</b>
All games will move to 88/12 in CY21	<b>12% (H1 CY21)</b>

\*The ADA also addresses the Windows 8 legacy platform as well as Store for Business and Education. When we made the update to reduce Microsoft rev share for apps from 30% to 15%, there were technical constraints preventing us from updating the rev share model for transactions on those platforms/Storefronts, hence the carve-out in the ADA. These platforms account for a very small percentage of transactions and the SFB/EDU is going to deprecate its commerce functionality by the end of Q1 CY 2021.

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## Store Policy Exception Summary – Top Apps by Sales

App Partners accounting for 90% of gross revenue

### Current Exceptions Overview

- 13 of the top Apps partners have one or more policy exceptions:
  - Of the 13 partners with exceptions, 11 represent media streaming partners, 2 represent productivity partners.
  - Of the 11 media streaming partners, 10 have Policy exceptions for both **billing** and **standard rev share** fees paid to MSFT \*
  - The other media partner was granted a standard rev share fee exception.
- The 2 productivity partners both have standard rev share fee exceptions.

### Policy Exception Categories:

- **Subscription Billing** exceptions provided to entertainment service providers as a result of 6 key feature gaps in the MSFT subscription platform. These features are required by these ISVs to run their business and for entering the MSFT Store. (Example: ability to set introductory price, ability to move customers across SKUs, etc). Features are in engineering backlog 3+ years.
  - Store currently has active subscription billing exceptions for 47 partners, including EDU and SMB partners, who would otherwise not launch in Store.
- **Standard Rev Share Fee** exceptions provided to entertainment service providers and more traditional w32 ISVs as incentive to launch in MSFT Store.

### Policy Exception Rationale:

- Exceptions/Custom terms granted to ISVs based on value creation for partner in alignment with their business model. Granted to ISVs that meet the following criteria:
  - The app/service drives mass customer engagement and is highly sought after by customers.
  - The app is strategically important to category on PC or Xbox.
  - Are among top 10 global/regional performing apps in their respective category (by revenue, downloads, engagement, and active users)
  - Has strategic value to broader Microsoft initiative.

### Other Contractual Gives to Top Partners:

Store 'Gives' tend to be committed digital marketing impressions across owned & operated, Store/paid media channels, managed via the Apps Category Team.

- to secure day and date launch of the partner service/app on Xbox/PC relative to other competing platforms.
- to incent the partner to build on another MSFT storefront, remain on platform, and/or to incent to build differentiated features.

\* Standard Store Apps Rev Share Fee: 70/30 for transactions on Xbox, 85/15 for transactions on PC as well as on subscription price, recurring monthly on PC and Xbox

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## Store Policy Exceptions – Top Apps by Sales

	Partner App / Company	Platform	FY20 Est. Gross Sales*	FY20 Net Sales	Policy Exception Provided	Contractual Rev Share**	Contractual Billing	MSFT Store Apps Category Contractual Gives
1		PC & Xbox	\$ 202.6M^	\$ 20.3M^	Billing & Rev Share	90/10 of subs price on Xbox, recurring; No PC fee starting FY21 Q2	Leveraging own subscription billing	Entertainment Block Logo Permanency
2		PC & Xbox	\$ 37.1M	\$ 3.7M	Billing & Rev Share	\$1.87 per month per new subscriber (\$15 cap)	Leveraging own subscription billing	27M Impressions x Platforms
3		Xbox	\$ 35.1M	\$ 3.5M	Billing & Rev Share	90/10 of subs price x 24 months	Leveraging own subscription billing	50M Xbox Impressions
4		PC & Xbox	\$ 21.6M	\$ 1.6M	Rev Share	92.5/7.5 of transactional price	Leveraging MSFT transactional billing	
5		PC & Xbox	\$ 20.5M	\$ 2.1M	Billing & Rev Share	\$1.50 for each new registered user on PC; fee/user based on registered users on Xbox	Leveraging own subscription billing	PC OOB 12 months WW
6		PC & Xbox	\$ 19.5M	\$ 2.0M	Billing & Rev Share	2x months Prime fee + 5% Add-ons	Leveraging own subscription billing	57M Impressions, PC OOB 3 months non-MMTV market
7		Xbox	\$ 16.6M	\$ 1.7M	Billing & Rev Share	90/10 of subs price x 24 months	Leveraging own subscription billing	35M Xbox Impressions
8		PC & Xbox	\$ 5.6M	\$ 0.8M	Rev Share	85/15 of sub price, recurring (granted before standard fee was dropped from 70/30)	Leveraging MSFT transactional billing	
9		PC & Xbox	\$ 4.4M	\$ 0.4M	Billing & Rev Share	90/10 of new subs price (\$2 p/month cap) x 24 months (note Sling has expensive packaged)	Leveraging own subscription billing	50M Impressions, 3 months OOB
10		Xbox	\$ 3.7M	\$ 0.6M	N/A	Standard: 85/15 of subs price, recurring	Leveraging MSFT subscription billing	
11		Xbox	\$ 3.7M	\$ 0.6M	N/A	Standard: 85/15 of subs price, recurring	Leveraging MSFT subscription billing	
12		Xbox	\$ 3.3M	\$ 0.5M	N/A	85/15 of gross advertising sales	Free app, no billing integration	15M Xbox Impressions
13		PC & Xbox	\$ 3.2M	\$ 0.3M	Billing & Rev Share	90/10 of subs price x 24 months	Leveraging own subscription billing	
14		Xbox	\$ 3.1M	\$ 0.3M	Billing & Rev Share	90/10 of subs price x 24 months	Leveraging own subscription billing	
15		PC & Xbox	\$ 3.0M	\$ 0.5M	N/A	Standard: 70/30 Xbox, 85/15 PC	Leveraging MSFT transactional billing	
16		Xbox	\$ 2.9M	\$ 0.4M	N/A	85/15 of gross advertising sales	Free app, no billing integration	
17		Xbox	\$ 2.4M	\$ 0.2M	Billing & Rev Share	One-time payment of 2 months subs price	Leveraging own subscription billing	
18		PC	\$ 1.9M	\$ 0.2M	Rev Share	85/15 of subs price recurring in year one, 92.5/7.5 of subs price recurring in year two	Leveraging MSFT subscription billing	
19		PC	\$ 1.8M	\$ 0.3M	N/A	Standard: 15% of subs price, recurring	Leveraging MSFT subscription billing	
<b>Totals</b>			<b>\$392M</b> 90% of Total	<b>\$39.9M</b> 71% of Total				

\*Bounty Partners gross sales are estimated based on fee structure w/Store | ^Netflix FY21 sales will be lower due to renegotiated contract at less favorable terms with est gross sales projected at ~\$80M billed revenue at ~\$8M |

\*\*Standard Store Apps Rev Share Fee: 70/30 for transactions on Xbox, 85/15 for transactions on PC as well as on subscription price, recurring monthly on PC and Xbox

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## Store Policy Exception Summary – Top Games by Sales

PC Gaming Partners accounting for 100% of gross revenue

The PC Games category is achieving healthy organic growth in the Casual Games segment (free cross-mobile games like [REDACTED] without contractual incentives other than short-term Store merchandising during a game's launch for Top 200 mobile games that come to W10.

- **King is the only Agency-model partner with a non-standard revenue share.**
- There is a proposal currently under Gaming Leadership Team consideration to adopt 88/12 as a public PC games revenue share for *all games* in exchange for the grant of streaming rights to Microsoft.
- [REDACTED] is the unique exception to Casual Games partners standard terms. [REDACTED] negotiated a 2-yr renewal (eff FY21-FY22) to receive a custom 80/20 revenue share and up to \$1M per year redeemed CSV for use in [REDACTED] executed acquisition and reengagement campaigns.
- The business model of advertising a game in other games via middleware ad platforms (Vungle, IronSource) is a pillar of the iOS and Google mobile gaming ecosystems. As a result, in lieu of policy and payment terms exceptions, the PC Gaming category team, has effectively used this co-op marketing approach with partners to accelerate growth in the category.

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## Store Policy Exceptions – Top PC Games Publishers

	Partner App / Company	% Gross / % Net Revenue	Platform	Annualized Oct 20 Revenue (Oct x 12)	Annualized Oct 20 Net Revenue (Oct x 12)	Policy Exception Provided	Contractual Rev Share*	Contractual Billing	MSFT Store, Games Category Contractual Gives
1		29% / 57%	PC	\$148.3M	\$148.3M**			1PP Studios	
2			PC	\$57.4M	\$17.2M		Standard 70/30	Standard Commerce API	
3			PC	\$49.6M	\$9.9M	Rev Share	80/20 per JMA contract	Standard Commerce API	51M/yr Store CSV for joint acquisition programs
4			PC	\$46.1M	\$13.8M		Standard 70/30	Standard Commerce API	
5			PC	\$45.5M	\$13.7M		Standard 70/30	Standard Commerce API	
6			PC	\$34.0M	\$10.2M		Standard 70/30	Standard Commerce API	
7			PC	\$18.3M	\$5.5M		Standard 70/30	Standard Commerce API	
8			PC	\$16.5M	\$5.0M		Standard 70/30	Standard Commerce API	
9			PC	\$14.3M	\$4.3M		Standard 70/30	Standard Commerce API	
10		65% / 39%	PC	\$12.9M	\$3.9M		Standard 70/30	Standard Commerce API	
11			PC	\$10.1M	\$3.0M		Standard 70/30	Standard Commerce API	
12			PC	\$9.1M	\$2.7M		Standard 70/30	Standard Commerce API	
13			PC	\$6.4M	\$6.4M**	GEO Managed Partner with a Garrison ADA Addendum	88/12 per Garrison Addendum contract	Standard Commerce API	
14			PC	\$6.2M	\$1.9M		Standard 70/30	Standard Commerce API	
15			PC	\$4.0M	\$1.2M		Standard 70/30	Standard Commerce API	
16			PC	\$2.7M	\$0.8M		Standard 70/30	Standard Commerce API	
17			PC	\$2.4M	\$0.7M		Standard 70/30	Standard Commerce API	
18			PC	\$2.1M	\$0.6M		Standard 70/30	Standard Commerce API	
19	Rest of Catalog (6% of Revenue)	6% / 4%	PC	\$31.5M	\$9.4M		Standard 70/30	Standard Commerce API	
Total		100%		\$517M (\$369M 3PP)	\$259M (\$106M 3PP)				

\*Standard Win10 PC Games revenue share is 70/30. GEO Managed Partners that have signed a Garrison Addendum to the App Developer Agreement (ADA) receive 88/12 across all PC Storefronts.

\*\*1PP and Reseller business model partner Net Revenue recognized at 100% of Gross as compared to Agency model partners recognized at 30% of Gross (we recognize only the Store Fee)

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## Movie Industry Climate

COVID continues to alter how content reaches consumers

### Box Office Impact: ①

- 82% YoY Drop in Domestic Box Office Revenue (\$2.1B in 2020 vs. \$11.3B in 2019)\*
- 50% YoY Drop in title releases (444 titles in 2020 vs. 911 titles in 2019)\*
- 68% YoY in China Box Office, still surpassed North America total in 2020, \$3.13B\*\*

### Exhibitors/Theater Owners:

- Majority of domestic theaters have been closed since March, or opened at limited capacity <50%
- Regal has had all 600+ Theaters closed since early October
- AMC is trying to avoid bankruptcy; stock dropped 75% in 2020

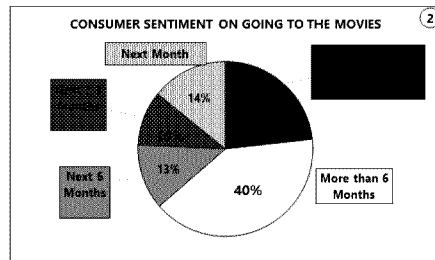
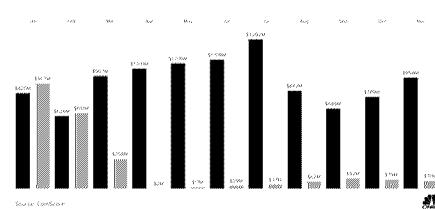
### Studios: Experimenting

- Content drought: Most production halted in Spring; resumed in Fall; LA filming now stopped again
- Major Studios are determining individually what is best for their content slate:
  - Finished big-budget Titles (\$100M-\$200M): Release delayed until more theaters open (e.g., Black Widow)
  - Studios releasing smaller titles on their own streaming services (Soul, Artemis Fowl, etc.), selling to other streamers (Coming2America, Greyhound, etc.) or selling as a Premium Video on Demand (PVD) on transactional services (Trolls2, Scoob, etc.)

### Consumers and Expansion:

- ② Are hesitant to return to theaters
- Subscriber Volume: Netflix 195M Subs, +28M (Oct); Disney+ 86.8M Subs, +58M (Dec)
- Disney+ continues global rollout & will add FOX and library content to Disney+ via 'STAR+' brand.
- HBO MAX to expand internationally 2021.

Box office comparison: 2019 vs. 2020



Source: Morning Consult Survey Dec 17-2020 Jan 2, 2021

\*BoxOfficeMojo, \*\*Mapian Entertainment

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## Microsoft Movies & TV - Rental programs

### Key questions:

- How effective are VOD sales at driving new users?
- Which price point drove more new users?
- What are the behaviors of these new users after they participate on discounted VOD?

### REVISE:

- Look at LIFT comparatively in .99c, we need to justify why we need to get .99c, look at
- Look at quality type of users from
- Percentage of difference from each tier, think from revenue to units to price point

Determine what price attracts the most quality new users, First Time Purchasers "this will do no harm" aggressive discounts // significant // pulsing different siginit / we use rental sale to attract most number of new users, attracting new users that continue to come in and by. Keep in mind, .99c good way to keep people

**in but better quality keep – quality purchasers****Going forward, 1.99 / .99****Potential different hypothesis:**

- Aggressive rental discounts will attract First-time purchasers to MMTV platform
- Aggressive rental discounts will attract quality First Time purchasers to MMTV platform
- .99c & 1.99c rental sale campaigns will attract quality First Time purchasers to MMTV platform
- Aggressive rental sale discounts on demo content with elevated merchandising will attract quality First-time purchasers into MMTV platform
- Aggressive .99c rental discounts of on demo content will attract quality First-time purchasers to MMTV versus 1.99c rental discounts of off demo content
- MMTV Rental Programs are effective new user drivers with .99c deals on new release AAA titles vs. MMTV .99c or 1.99 rental single SKU spotlight promotions
- MMTV Rental Programs with .99c deals are more effective than 1.99c deals in new user acquisition

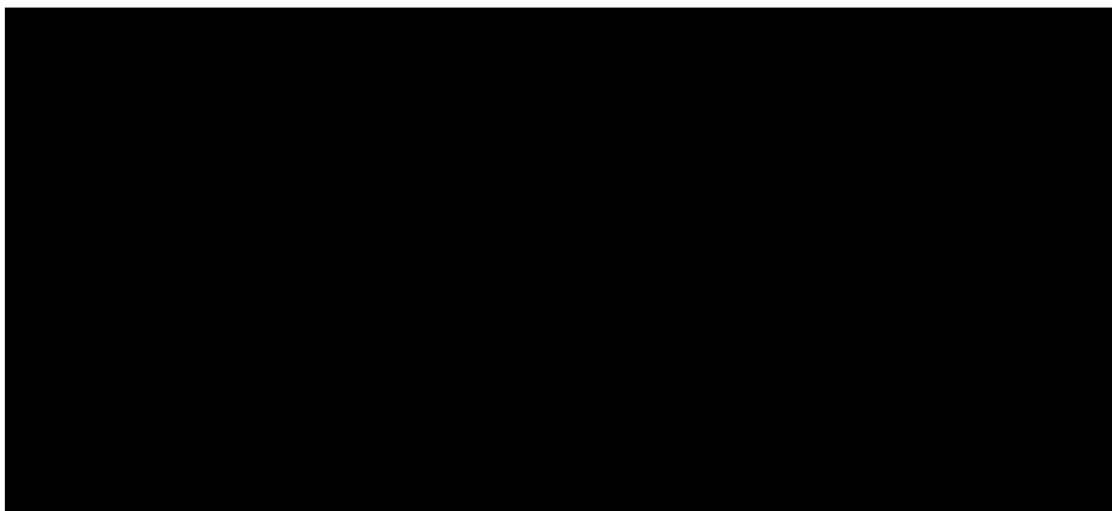
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**More misc notes:**

- XX% sale participants bought \$X.X VOD price point & \$X.X EST price point
  - XX% or # sale participants bought more than one rental & EST purchase
  - In Sale: avg. of 27% participating users also bought EST & spent \$10.50 (ARPU)
  - Outside Sale: avg. of 37% participating users spent \$17.85 (ARPU) on MMTV
  - Duration of each sale, average of 23.96% participating users are only rental users on MMTV
-

### **Store Policy Exceptions – Theatrical Release Strategies are Fragmented**

Studios have broken the traditional release windows during C19 to optimize for their individual growth needs. Microsoft agreements have been amended to align with new business models.



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