

# Group 17 - Conflicts of Interest

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## 1. Introduction

To effectively discuss the conflicts of interest prevalent in this lawsuit between Epic Games and Apple/Google we first must understand what a conflict of interest is.

A conflict of interest is a situation in which a given party with multiple interests (financial or otherwise) makes a decision that promotes one interest whilst going against another. [7][14] Given this involves an interest being disadvantaged we can imagine the party may suffer ethical or even legal ramifications due to oppressing the stakeholders of this interest.

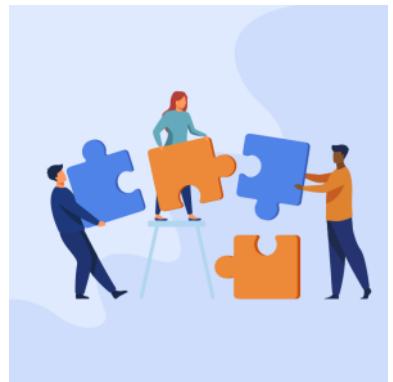
Ethical ramifications may involve financially affecting the stakeholders of this interest, and/or negatively affecting the given party's reputation. Legal ramifications involve the party/stakeholder(s) getting sued due to a conflict of interest that breaks the law or a formal agreement, and thus resulting in a significant financial loss to the party/stakeholder(s).

To fully understand how a given party may be affected by a conflict of interest we must first identify this party's stakeholders. A stakeholder is identified to be anyone who has a stake in the given party.

### 1.1. Stakeholders in a business (and their main interests) [8][1]

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- Internal
  - Directors and managers – salary, share options, job satisfaction, status
  - Employees – salary, job security, job satisfaction, motivation
- External
  - Shareholders – profit growth, share price growth, dividends
  - Customers (Users) – reliable quality, value for money, product availability, customer service
  - Suppliers (Software distributors) – long term contracts, prompt payment, growth of purchasing
  - Banks and other lenders – interest and principal to be repaid, maintain credit rating
  - Government – operate legally, tax receipts, jobs
  - Communities – environment, jobs, impact



[18]

Now that we have a good understanding of what a conflict of interest entails and who it can affect, I will now breakdown the actions made by each of the parties in these lawsuits that led to conflicts of interest.

## 2. The best interests of each party

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### 2.1. Apple

- Maximising financial wellbeing as described in the [Finance](#) section.
  - Access to lots of user data.
  - Having developer's on their platform who develop successful apps.
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### 2.2. Epic Games (and other app developers)

- Maximising financial wellbeing as described in the [Finance](#) section.
  - Developer and App exposure.
  - Prevention of pirated/fake apps.
  - Free choice of distribution platforms and payment processors to use which caters best for their product.
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### 2.3. Users

- [Security and Privacy](#).
  - Reliable products.
  - Good value products.
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## 3. Decisions that led to conflicts of interests in each party

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### 3.1. Apple

- Prioritising maximising profit rather than providing its customers (iOS developers and users) with competitive service costs  
Apple's actions here infringe upon ACM principle 3.1.



ACM Principle 3.1 - Ensure that the public good is the central concern during all professional computing work.

People—including users, customers, colleagues, and others affected directly or indirectly—should always be the central concern in computing. The public good should always be an explicit consideration when evaluating tasks associated with research, requirements analysis, design, implementation, testing, validation, deployment, maintenance, retirement, and disposal. Computing professionals should keep this focus no matter which methodologies or techniques they use in their practice.

- **Oppressive developer agreement** [\[4\]](#)

The developer agreement for the iOS App Store allows Apple to take a 30% tax for all in-app purchases, paid apps, and subscription services. These in-app purchases are defined by apps which sell digital goods in contrast to digital marketplaces which vend physical goods/services (ie. Uber, Airbnb). This agreement includes a clause which prevents developers from including different payment methods to bypass the tax on these in-game purchases. On top of this within the agreement terms they have discussed the right to change their tax cut by however much at any point.

It is not just Epic Games but also Spotify, Airbnb, Tinder, Facebook, and Netflix have all had dispute with Apple's App Store rules in the past, however, these were far less public. To curb this significant tax on subscriptions Netflix and Spotify both only made registration available on their websites. To discourage this tax avoidance Apple's agreement prevents these companies from redirecting users to their website from their apps for registration. [\[13\]](#)

- **Forces users to have to pay inflated prices**

This tax evidently increases the costs developers must take and thus iOS in-app purchases and subscriptions are often inflated to account for this. A good example of this is Tinder which provides cheaper registration costs on its website than on its iOS app. [13]

This implies people who know about this inflation will rather register on a different device to bypass the larger cost for the same product.

- **Apple's management prioritising short-term gain rather than the long-term value of the company**

In the long term it is likely the 30% is going to be lost due to regulation, therefore, a pre-emptive change would be useful for Apple to get on a better side with its own iOS developers, provide competitive costs to other mobile operating systems, and to protect Apple's shareholders in the long-term. However, providing competitive costs is less important for Apple due to their already very significant market size. [10]

- **Removing Fortnite off the App Store and terminating Epic Games' developer account**

Apple could have issued a warning or a suspension to Epic Games rather than full termination. Not only does this affect Epic's stakeholders greatly, but also its Apple users. Thus, this could result in damages to Apple's reputation due to Fortnite's massive userbase along with a great loss of potential revenue given Fortnite had over 100 million registered users on Apple devices producing around \$1.2 billion in global app store spending as of August 2020. [13]



[19]

## 3.2. Epic Games

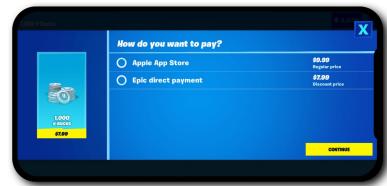
- **Prioritising maximising future profit rather than keeping a good relationship with its distributors**

- **Breaching their developer agreement [4]**

The 30% in-app purchases tax defined in the developer agreement applies to apps which sell digital goods. In this agreement, Apple also prevents developers from including different payment methods to bypass this tax. This therefore encapsulates Epic's very popular game Fortnite which uses an in-game currency called VBucks for buying character skins.

Epic introduced a new direct-payment system in its extremely popular game Fortnite. This direct-payment system offered a cheaper price for the same in-game goods thus directly infringing upon this developer agreement.

Epic's actions here violated ACM principle 2.3.



[20]



**ACM Principle 2.3 - Know and respect existing rules pertaining to professional work.**

"Rules" here include local, regional, national, and international laws and regulations, as well as any policies and procedures of the organizations to which the professional belongs. Computing professionals must abide by these rules unless there is a compelling ethical justification to do otherwise. Rules that are judged unethical should be challenged. A rule may be unethical when it has an inadequate moral basis or causes recognizable harm. A computing professional should consider challenging the rule through existing channels before violating the rule. A computing professional who decides to violate a rule because it is unethical, or for any other reason, must consider potential consequences and accept responsibility for that action.

- **Nineteen Eighty-Fortnite** [12]

Epic Games produced an advert mocking Apple bringing this dispute into the public domain evidently looking to get support from the people. This parodied Apple's 1984 advert of taking down the IBM monopoly thus inferring Apple as being a monopoly.

This action is unprofessional and a conflict of interest as Epic Games is forming a bad relationship with Apple who allows Epic to distribute software on their operating systems.

- **Epic's management prioritising winning a personal battle with Apple over avoiding legal and reputational damages**

Filing a lawsuit against the biggest public company in the world is no joke and losing such a battle would obviously not be in the best interest of any of Epic's stakeholders. In Epic's lawsuit it says that they are not seeking any special exemption to Apple's developer terms implying this is less of a personal battle for Epic but rather one that is looking for industry wide change for developers. Such a move from Epic's management puts all its stakeholders in a risky position for the sake of the wellbeing for all future mobile app developers. Epic's actions here evidently violated ACM principle 3.1.

- **Prioritising its own monetary interests over its users**

Due to Epic's breach of Apple's developer agreement Apple terminated Epic's developer account and removed Fortnite from Apple's app store. This implies Apple users will not be able to access Fortnite or any other of Epic's games on macOS or iOS. This breach in agreement was unprofessional as Epic prioritised their monetary interests over that of their users being able to access their game.

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## 4. What drove the professionals to make these conflicts of interest

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### 4.1. Apple

- **Maximising profit**

If developers want to deploy software on iOS, they have no choice but to conform and agree to Apple's lucrative developer agreement as no competing app stores are permitted on iOS devices. Along with this, due to the fact Apple makes up 50% of the mobile market they have a massive amount of leverage in the way they can define their agreement for iOS developers. [10]

- **Holding Epic Games accountable**

Despite Fortnite's huge economic power Apple had to make an example out of Epic Games by terminating their developer account and removing Fortnite from the App Store, as directly breaching a contractual agreement is unacceptable. It is in their best interest to treat Epic Games equally as other existing established developer customers who have been paying these high charges for years.

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### 4.2. Epic Games

- **Maximising future profit by looking for industry wide change**

Given Epic Games' rapid Lawsuit response to Apple taking Fortnite off the App Store it is evident their motive was to publicly rebel against Apple's 30% app store tax and urged the people to join them. In Epic's lawsuit they explicitly stated they were not asking for special pardoning from Apple implying they are fighting for a change for all mobile app developers. For more information on this see the [Monopolies and Industry Structure](#), and the [History of Software Distribution](#) sections.

- **Potential compensation for legal damages if they win their lawsuit**

Although Epic Games breached a contractual agreement, if this agreement is deemed as a violation of antitrust law Epic Games may get financial compensation from Apple for lost revenue by removing Fortnite from the App Store.

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## 5. How the professionals could have prevented these conflicts

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### 5.1. Apple

Apple could have rather given a warning or suspension to Epic Games' developer account rather than full termination. Furthermore, Apple could have refactored their agreement to provide competitive costs against other mobile operating systems and keep good relationships with its customers (iOS developers and users). Although, we must note Apple's recent agreement alteration allowing a 15% tax cut for smaller developers [15], however, this was after the initial lawsuit and publicity.

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## 5.2. Epic Games

Epic could have filed a lawsuit against Apple without breaching their legal agreement to minimise any legal damages requested in Apple's counter lawsuit, to prevent Fortnite from getting taken off the App Store, and to prevent Epic Games' developer account being terminated.

In late September, Spotify, the owner of Tinder, and Epic Games teamed up to pressure other app store operators to change their rules, however, Apple and Google defended their fees given the security, developer exposure, and privacy their platforms provide. [13] These parties could have all teamed up together in the lawsuit to put lots of pressure on Apple and Google by not only getting more support from the public but also by using their collective power and experiences to provide a more effective case.

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## 6. What I think the outcome of these lawsuits will be given all these conflicts

Epic Games' lawsuit accuses Apple of antitrust violations by stifling competition and seeking to obtain a monopoly. With this Epic wants Apple to allow third party app stores, and payment processors. [1] For more information on how this may be enforced see the [Monopolies and Industry Structure](#), and [Legislation](#) sections.

Apple's counter lawsuit seeks financial compensation for the damages of Epic's breach in agreement, and intentional interference with Apple's prospective economic advantage (due to Fortnite's huge userbase). [2]

I believe the outcome of these lawsuits is purely dependent on how mobile operating systems should be allowed to control the distribution and monetisation of third-party software. One cannot just take away from what Apple has achieved because they have built such a popular ecosystem resulting in their products making up around 50% of the mobile market. [10] However, abusing this market power for personal benefit is where the line is drawn, the difficult question here is defining where this line is.



[21]

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