**Case Study: Epic Games vs Apple/Google**

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. 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.

**Stakeholders in a business (and their main interests)**

* 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
  + Advisers -
  + Consultants
  + Government – operate legally, tax receipts, jobs
  + Community – environment, local jobs, local impact

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 or prevented conflict of interests.

**Conflicts of Interest**

**Epic Games**

* **Forming a bad relationship with its distributors**
  + **Breaching their developer agreement**  
    The developer agreement for both the iOS and Android app stores allow Apple and Google 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 therefore encapsulates Epic’s very popular game Fortnite which uses an in-game currency called VBucks for buying character skins. This agreement includes a clause which prevents developers from including different payment methods to bypass the tax on these in-game purchases.  
      
    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 these developer agreements.
  + **Nineteen Eighty-Fortnite**  
    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.
* **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. Fortnite had over 100 million registered users on Apple devices producing around $1.2 billion in global app store spending as of August 2020.  
    
  Although, we can imagine Epic wanted to make a statement they did not have to do this by breaching a legal agreement.

**Apple & Google**

* **Prioritising maximising profit rather than providing its customers (iOS developers and users) with competitive costs**
  + **Oppressive developer agreement**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 the agreement for iOS developers.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 even redirecting users to their website from their apps for registration.
  + **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.  
      
    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 likely 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 and provide competitive costs to other mobile operating systems. However, providing competitive costs is less important for Apple due to their already very significant market size.  
    
  A while after the initial lawsuit Apple ended up reducing its app store commission to 15% for small businesses earning up to $1 million per year.
* **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 fanbase 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.

**How the professionals could have detected and prevented these conflicts**

**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. 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.  
  
**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, however, this was after the initial lawsuit and publicity.

**What I think the outcome of the lawsuit should be given all these conflicts**

In the lawsuit Epic Games is accusing Apple of antitrust violations by stifling competition and obtaining a monopoly.

Supporting Epic’s count is the case in 2019 where Spotify accused Apple of stifling competition in EU complaint. To curb Apple’s subscription tax Spotify only enables sign-up on their website. However, Apple’s terms prevent Spotify from directing users to its site. Netflix followed in the same way. When we see big companies make this move, we can imagine many other companies are considering doing the same. The only difference is Netflix and Spotify are in a much better position to market themselves in contrast to smaller companies.

Apple’s defendant simply denied the majority of allegations proposed by Epic.

Apple’s counter lawsuit seeks damages for Epic’s breach in agreement.

The true question of how this may end is dependent on how operating systems can control the distribution 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. However, abusing this market power for personal benefit is where the line is drawn, the difficult question to answer here is defining where this line is.