

From: Adam Sussman [REDACTED]
Sent: Fri, 24 Jan 2020 01:40:03 +0000 (UTC)
To: Haseeb Malik [REDACTED]
Subject: Re: EPIC ONLY: email to Google execs

DEFENDANT A	United States District Court Northern District of California
	Case No. 4:20-cv-05640-YGR
	Case Title <i>Epic Games, Inc. v. Apple, Inc.</i>
	Exhibit No. DX-3166
	Date Entered _____
	Susan Y. Soong, Clerk
	By: _____, Deputy Clerk

thank you for sharing! And for your time today

On Thu, Jan 23, 2020 at 1:48 PM Haseeb Malik [REDACTED] wrote:

Hi Adam,

Here is the email that Tim sent to Google Play leadership. For background, we had submitted a build of Google Play that included Epic payment only. Initially, we were flagged for two violations, one was for appearing to direct players to our sideload experience on web and the second for not including Google Play payment services. We submitted a second build which was cleared of the 1st violation but still blocked due to violation of their payment policy.

This is where we stand now.

----- Forwarded message -----

From: Tim Sweeney [REDACTED]
Date: Mon, Jan 13, 2020 at 6:43 PM
Subject: EPIC ONLY: email to Google execs
To: Canon Pence [REDACTED], Kayla Page [REDACTED] Haseeb Malik [REDACTED]
[REDACTED], Matt Weissinger [REDACTED] Mark Rein [REDACTED]
[REDACTED] Randy Gelber [REDACTED] Chris Babcock [REDACTED]

The clock is ticking!

----- Forwarded message -----

From: Tim Sweeney [REDACTED]
Date: Mon, Jan 13, 2020 at 6:40 PM
Subject: Re: Fortnite on Google Play
To: Hiroshi Lockheimer [REDACTED]
Cc: Jamie Rosenberg [REDACTED] Canon Pence [REDACTED] Kent Walker [REDACTED]
[REDACTED] Donald Harrison [REDACTED]

Hi Folks,

Thank you for considering Epic's two Fortnite submissions to Google Play.

Following Epic's appeal of Google's rejection our second (December 18) submission, we've received the written response below and verbal confirmation that the sole reason for the rejection was Fortnite's use of non-Google payment processing services, and that there are no violations of the Google Play Developer Distribution Agreement section 4.5.

If the current rejection stands, it establishes that the terms on Google's payment policy web page (<https://play.google.com/about/monetization-ads/payments/>), though not written in the form of a legal agreement, are strictly-enforced conditions of access to Google Play and not just recommendations or wishes.

Since the forced tying of a digital payments monopoly to a consumer software distribution platform with

majority marketshare is illegal in numerous territories where Google Play operates, we ask Google to either:

- 1) accept our latest submission of Fortnite for release on Google Play; or
- 2) agree to pursue acceptance contingent on a timely review by Google of Epic's payment processing services and its customer protections.

Epic requests a decision in writing by Feb 3, 2020.

Best Regards,

Tim Sweeney
Epic Games Inc

----- Forwarded message -----

From: [REDACTED]
Date: Thu, Jan 9, 2020 at 7:38 PM
Subject: Re: OOO - Holiday break. Will return Jan 6. Happy Holidays! Re: Your message about Google Play [0-3017000028863]
To: [REDACTED]

Hi Haseeb,

Thank you for your patience.

Status of Fortnite (com.epicgames.fortnite): Suspended from Google Play due to policy violation

Unfortunately, we cannot accept your appeal at this time because multiple submissions of the app [com.epicgames.fortnite] contained Developer Program Policies violations, including after the initial appeal was conditionally granted on December 17th, 2019 4:52pm (PST).

The last enforcement notice for Developer Distribution Agreement (DDA) Section 4.5, Malicious Behavior, and Payments policy violations was in reference to your previous submission made on December 17th, 2019 6:28pm (PST). The most recent version of your app was submitted after our app review of the above.

Please note that all app submissions must comply with the Developer Program Policies. We've reviewed your appeal, including your latest submission, and found that your app still violates Google Play Policy. Specifically, your app continues to violate **Payments** policy, which generally prohibits games published on Google Play from providing a payment method other than Google Play Billing to purchase in-app virtual currency or in-app digital downloads.

Please see the attached screenshot for reference. You can read through the Payments policy for more details and examples of common violations.

Please note that suspensions count as strikes against the good standing of your Google Play Developer account. Egregious or multiple policy violations can result in suspension, as can repeated app rejections or removals.

If your developer credentials are still in good standing with Google Play, you can publish a new compliant version of the app by following these steps:

1. Make all necessary changes to your app to address the issue described above.
2. Double check that your app complies with all other Developer Program Policies. Additional enforcement could occur if there are further policy violations.
3. Sign in to your Play Console and upload a new app using a **new package name** and a **new app**

name.

Please let me know if you have any other questions. Thanks for your continued support of Google Play.

Regards,
The Google Play Team

Please visit the [Play Developer Policy Center](#) and [Play Academy](#) to learn more about building policy compliant and high quality apps.

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Haseeb Malik
Director | Mobile Publishing | Epic Games