

TechScape: ‘Hot garbage’ or core protection? Inside Apple’s ongoing beef with the EU

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Who owns the phone in your pocket? That’s the question at the heart of Apple’s latest battle with European regulators, and it doesn’t look as if it’s going to be settled any time soon. On Thursday, the company published its plan for how to comply with the European Union’s Digital Markets Act (DMA), a mammoth piece of legislation that seeks to break up the power of so-called “gatekeepers”: the massive (almost entirely American) technology companies whose stature warps whole industries. From our story: Under the changes, the US tech company will also give iPhone users a range of browsers to choose from as their default, allow the use of alternative payment systems to Apple Pay, and permit the installation of alternatives to its App Store, which could theoretically include the Google Play store. But there is a catch: for the first time, developers who take advantage of the option will be charged a flat fee per installation, overturning free-to-play business models and limiting the sorts of apps that can bypass the store. The six companies named as gatekeepers – the American big five of Apple, Google, Facebook, Microsoft and Amazon, plus ByteDance – have a raft of requirements foisted on them in the areas they are considered to be dominant. Varied though they are, covering everything from TikTok’s power in social networking to Google’s monopoly in search engines, the goal is the same: to ensure that control of the services doesn’t lead to control of the world we build on top of them. But giving up control is hard. Apple has long argued that its strict control of the iOS platform and the App Store is fundamentally paternalistic, rather than authoritarian. It says that a world in which iPhones worked like Macs would be one with more scams, viruses and consumer harms. The EU says, effectively: “We’ll take that risk.” Hence the company’s begrudging new plans. When Apple switched the iPhone line to use USB-C rather than the company’s own Lightning ports, it was effusive about the benefits the change would bring – and silent about the fact that it was mandated by the EU. Not so this time. Apple’s announcement drips with displeasure at being forced to do something it detests: The DMA requires changes to this system that bring greater risks to users and developers ... This includes new avenues for malware, fraud and scams, illicit and harmful content, and other privacy and security threats. These changes also compromise Apple’s ability to detect, prevent, and take action against malicious apps on iOS and to support users impacted by issues with apps downloaded outside of the App Store. A whole new world So what has changed? A whole lot. Some of the new rules announced last week apply globally, and some in the EU only, which helpfully lets us guess at what things Apple is pissed off at having to change, and what things Apple is absolutely spitting furious about. In the former category, the company has relaxed its limitations on video game streaming services (such as Microsoft’s Xbox Game Pass), and will

no longer require each individual game to have its own presence on the App Store. It's also dropped requirements for apps to support its homegrown "Sign in with Apple" technology (though developers will still have to offer a "privacy-focused" login service, and cannot force people to use, for example, "sign in with Facebook"). Developers will also receive new analytics data, it said. The latter category is much bigger, much more consequential, and all exclusive to users within the EU. Top of the list is the ability, for the first time, for developers to make their apps available outside the App Store. It's not a total free-for-all, however: Apple will require apps to be installed from a comparable marketplace, which can only be run by big companies (who can prove they have access to €1m of credit), and must be (as best it can enforce it) "real" marketplaces. In other words, Facebook can run an app store, but not if it only has apps made by Facebook on it. Apple will still maintain a modicum of control over those app stores, vetting the apps that go on them for security concerns, but explicitly not applying the company's content policies. That's as the EU wants it, but does mean the burden of complying with the vast array of other European regulations will fall on the third-party marketplaces that spring up. Equally important is the ability of developers to build their own web browsers and contactless payment systems. Apple has long prevented others from doing that (third-party browsers on iOS, such as Chrome and Firefox, are just wrappers for Apple's own "WebKit" rendering engine) for security reasons, and now we get to see whether the trade-off was worth it. Money talks But let's not get too stuck on points of principle. The real reason this bevy of announcements is so consequential is money. And that's where Apple threw a grenade at the status quo. EU developers will be offered two choices. They can either continue as though nothing has changed, or they can take the "alternative terms". Those see the cut they pay Apple for downloads from the App Store reduced from its current 15-30% down to 10-17% (depending on the business they're in), with a 3% surcharge to use Apple's own payment system. Payments from alternative app stores garner no commission at all (although said stores may charge their own fees). But these savings don't come for free. Developers who sign up for the new terms will also need to pay a "core technology fee", an (effectively) annual €0.50 per user. And that's where the question of who owns your iPhone comes in. For the first time, Apple is making explicit an argument it has danced around for a long time: that even though you have bought an iPhone from it, it still deserves to be paid for you to use it. The core technology fee, the company says, "reflects the many ways Apple creates value for developers' businesses". (Apple already charges developers \$99 a year to build for the platform.) The fee has sparked outrage from some of the companies that were most hoping for the change, including Epic Games (who called the new terms "hot garbage") and Spotify (who called it "extortion, plain and simple"). It certainly upends the economics of app development, rendering free-to-play development extremely risky, and almost certainly increasing the payment many developers would have to make to Apple. Spotify, for instance, doesn't allow users to subscribe through the App Store, and so currently pays nothing to the company. That would increase to tens of millions of euros a year if it accepted the alternative terms. And while most apps get their first million users for free, thanks to the beneficence of Apple, alternative app stores have to pay the fee from user one – which means they'll be economically compelled to impose their own charging structure to avoid haemorrhaging cash. Where does this leave indie developers? What follows will almost certainly be an extended period of haggling. Big European tech firms will want the fee to be cut or eliminated altogether. Apple, meanwhile, will want to give no further ground, but more importantly, will want to avoid the appearance of the European experiment being seen to be a success. If few alternative app stores launch, and most developers stick on the pre-existing terms, it will strengthen its claim that other jurisdictions don't need to follow the EU's lead. That, more than anything, likely explains the dogged attempt to follow the letter rather than the spirit of the regulations. Both sides of big tech, then, think that the new terms will have little difference. But I'm not so sure they're right. The tech I want to see flourishing isn't megascale streaming services who need to trim pennies from every monthly user, any more than it is monolithic platforms whose desire for control warps the culture at large. Instead, I'm eager to see a world in which indie developers, artists and creators can coexist with the massive players. Alternative marketplaces, low commissions and flat fees don't help Spotify in its battle with Apple Music, but could make for a very different landscape for those developers who just need to find a niche within a niche to make their home.